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सं. 10| नई दिल्ली, मार्च 3—मार्च 9, 2013, शनिवार/फाल्गुन 12—फाल्गुन 18, 1934
No. 10| NEW DELHI, MARCH 3—MARCH 9, 2013, SATURDAY/PHALGUNA 12—PHALGUNA 18, 1934

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 6 मार्च, 2013

का.आ. 537.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उत्तर प्रदेश राज्य सरकार, गृह (पुलिस) अनुभाग II की अधिसूचना संख्या 565/6-पी-11-2013-99एम/2013 दिनांक 4 मार्च 2013 द्वारा प्राप्त सहमति से निम्नलिखित कांडों:

क्रम सं.	अपराध संख्या	अंतर्गत धारा
1	2	3
1.	18/2013	302 भा.द.सं. 1860 और धारा 7 सी.एल.ए. अधिनियम, 1961
2.	19/2013	396, 307, 323, 504, 332, 353, भा.द.सं. 1860 और धारा 7 सी.एल.ए. अधिनियम, 1961
3.	20/2013	302, 504, 506, 120 बी भा.द.सं. ए 1860

1	2	3
4.	21/2013	147, 148, 149, 302, 504, 506, 120 बी भा.द.सं., 1860 और धारा 7 सी.एल.ए. अधिनियम, 1961

थाना हाथिगौव, जिला प्रतापगढ़, यू.पी. में पंजीकृत अपराध के संबंध में अन्वेषण करने तथा प्रयास करने, दुष्प्रेरणों और षड्यंत्रों तथा उसी संव्यवहार के अनुक्रम में किये गये अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध या अपराधों का अन्वेषण करने के संबंध में दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण उत्तर प्रदेश राज्य पर करती है।

[सं. 228/21/2013-ए.वी.डी.-II]

राजीव जैन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 6th March, 2013

S.O. 537.—In exercise of the powers conferred by sub-section (1) of Section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Uttar Pradesh, Grih (Police) Anubhag-II, Lucknow conveyed vide Notification F. No. 565/6-P-11-2013-99M/2013 dated 4th March, 2013, hereby

extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttar Pradesh for investigation of the offences viz:

Sl. No.	Case No.	Section Laws
1.	18/2013	Under section 302 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and 7 Criminal Law (Amendment) Act, 1961 (Act No. 23 of 1961)
2.	19/2013	Under section 396, 307, 323, 504, 332, 353, of the Indian Penal Code, 1860 (Act No. 45 of 1860) and 7 Criminal Law (Amendment) Act, 1961 (Act No. 23 of 1961)
3.	20/2013	Under section 302, 504, 506, 120B of the Indian Penal Code, 1860 (Act No. 45 of 1860)
4.	21/2013	Under section 147, 148, 149, 302, 504, 506, 120B of the Indian Penal Code, 1860 (Act No. 45 of 1860) and 7 Criminal Law (Amendment) Act, 1961 (Act No. 23 of 1961)

registered at Police Station Hathigawan, Distt. Pratapgarh, Uttar Pradesh and attempts, abetments and conspiracy in relation to or in connection with the above mentioned offences and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F. No. 228/21/2013-AVD-II]

RAJIV JAIN, Under Secy.

गृह मंत्रालय

नई दिल्ली, 28 फरवरी, 2013

का.आ. 538 .—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम(4) के अनुसरण में, गृह मंत्रालय के निम्नलिखित कार्यालय में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80% से अधिक हो जाने के फलस्वरूप एतद्वारा अधिसूचित करती है :

महानिदेशक का कार्यालय, सशस्त्र सीमा बल, पूर्वी खण्ड-5, आर.के. पुरम, नई दिल्ली-110066

[सं. 12017/1/2012-हिन्दी]

अवधेश कुमार मिश्र, निदेशक (राजभाषा)

MINISTRY OF HOME AFFAIRS

New Delhi, the 28th February, 2013

S.O. 538 .—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the

Union) Rules, 1976, the Central Government hereby notifies the following office of the Ministry of Home Affairs wherein the percentage of the staff having working knowledge of Hindi has gone above 80% :

Office of the Director General, Shashastra Seema Bal, East Block-5, R. K. Puram, New Delhi-110066.

[No. 12017/1/2012-Hindi]

AVADHESH KUMAR MISHRA, Director (OL)

वित्त मंत्रालय

(राजस्व विभाग)

(केंद्रीय उत्पाद शुल्क, पुणे-III के आयुक्त का कार्यालय)

पुणे, 17 दिसम्बर, 2012

सं. 01/2012-सीमा-शुल्क. (नॉन टैरिफ)

का.आ. 539 .—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली द्वारा दिनांक 01 जुलाई, 1994 को जारी की गई अधिसूचना संख्या-33/1994 सीमा-शुल्क (नॉन टैरिफ) के अंतर्गत सीमा-शुल्क अधिनियम 1962 (1962 का 52) की धारा 152 के खंड (अ) के अधीन मुझे प्रदत्त अधिकारों को कार्यान्वित करते हुए महाराष्ट्र राज्य के जिल्हा-पुणे, तालुका-बारामती के अधीन ग्राम 'वान्जरवाडी' को सीमा-शुल्क अधिनियम, 1962 की धारा 9 के अधीन शतप्रतिशत निर्यात लक्ष्यी यूनिट (100% ई ओ यू)/ई.एच.टी. पी./एस.टी.पी. यूनिटों की स्थापना के लिए वेअरहाउसिंग स्टेशन के रूप में घोषित कर रही हूँ।

[फा. सं. वीजीएन(30)137/वेअरहाउसिंग स्टेशन/2012/2228]

संगीता शर्मा, आयुक्त

MINISTRY OF FINANCE

(Department of Revenue)

(OFFICE OF THE COMMISSIONER, CENTRAL
EXCISE, PUNE-III)

Pune, the 17th December, 2012

No. 01/2012-Customs (N.T.)

S.O. 539 .—In exercise of the powers conferred vide Notification No. 33/1994-Customs (N.T.) dated 1st July, 1994 by the Government of India, Ministry of Finance, Department of Revenue, New Delhi, under clause (a) of Section 152 of the Customs Act, 1962 (52 of 1962), Village 'Vanzarwadi' falling under Tal: 'Baramati', District: 'Pune' in the State of Maharashtra is hereby declared to be a Warehousing Station under Section 9 of the Customs Act, 1962, for the limited purpose of setting up of 100% Export Oriented Units (EOU)/EHTP/STP Units.

[F. No. VGN(30)137/Warehousing Station/2012/2228]

SUNGITA SHARMA, Commissioner

(व्यय विभाग)

नई दिल्ली, 22 फरवरी, 2013

का.आ. 540 .—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में भारतीय लेखापरीक्षा और लेखा विभाग के निम्नलिखित कार्यालयों को, जिनके अस्सी प्रतिशत कर्मचारिवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती हैं :—

1. महालेखाकार (लेखा एवं हकदारी), उतराखंड, देहरादून ।
2. महालेखाकार (लेखा एवं हकदारी), छत्तीसगढ़ रायपुर ।
3. क्षेत्रीय प्रशिक्षण संस्थान, राँची ।
4. प्रधान निदेशक, लेखापरीक्षा (दक्षिण पूर्व मध्य रेलवे), बिलासपुर ।
5. प्रधान निदेशक, लेखापरीक्षा (पूर्व मध्य रेलवे), हाजीपुर ।
6. प्रधान निदेशक, लेखापरीक्षा (उत्तर मध्य रेलवे), इलाहाबाद ।
7. महानिदेशक, लेखापरीक्षा (केन्द्रीय प्राप्ति), नई दिल्ली ।
8. महानिदेशक, लेखापरीक्षा (केन्द्रीय व्यय), नई दिल्ली ।
9. उप-निदेशक, लेखापरीक्षा (केन्द्रीय फौकरी), जबलपुर ।
10. उप-निदेशक, लेखापरीक्षा (डाक एवं तार), तिरुवनन्तापुरम ।
11. उप-निदेशक, वाणिज्यिक लेखापरीक्षा का कार्यालय विशाखापट्टनम इस्पात संयंत्र विशाखापट्टनम ।
12. प्रधान निदेशक, लेखापरीक्षा उत्तर पश्चिम रेलवे, जयपुर ।

[सं. सी. 11021/01/2012-ई.जी.]

सुभाष चन्द, उप सचिव

(Department of Expenditure)

New Delhi, the 22nd February, 2013

S.O. 540 .—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notifies the following offices of the Government of India in the Indian Audian and Accounts Department, in which eighty per cent of the staff have acquired the working knowledge of Hindi, namely :—

1. Accountant General (Accounts and Entitlement), Uttarakhand, Dehradun;
2. Accountant General (Accounts and Entitlement), Chhattisgarh, Raipur;
3. Central Training Institute, Ranchi;
4. Principal Director, Audit (South East Central Railway), Bilaspur;

5. Principal Director, Audit (East Central Railway), Hazipur;
6. Principal Director, Audit (North Central Railway), Allahabad;
7. Director General Audit (Central Receipt), New Delhi;
8. Director General Audit (Central Expenditure), New Delhi;
9. Deputy Director Audit (Ordinance Factory), Jabalpur;
10. Deputy Director Audit (Post and Telegraph), Tiruvananthapuram;
11. Deputy Director, office of Commercial Audit, Steel Plant, Vishakhapatnam;
12. Principal Director Audit (North West Railway), Jaipur;

[No. C-11021/01/2012-EG]

SUBHASH CHAND, Dy. Secy.

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 25 फरवरी, 2013

का.आ. 541 .—मंत्रिमंडलीय नियुक्ति समिति द्वारा दिनांक 11-12-2008 को अनुमोदित दिशानिर्देश संख्या 18 (52) ईओ/08 (एसीसी) के साथ पठित भारतीय रिजर्व बैंक अधिनियम, 1934 की धारा 8 की उप-धारा (4) के साथ पठित धारा 8 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस विभाग की दिनांक 18-01-2011 की समसंख्यक अधिसूचना के द्वारा श्री आनंद सिन्हा (जन्म तिथि : 03-02-1951) को दिनांक 28-02-2013 तक की अवधि के लिए भारतीय रिजर्व बैंक का डिप्टी-गवर्नर नियुक्त किया गया था, भारतीय रिजर्व बैंक के डिप्टी-गवर्नर के रूप में उनके कार्यकाल की अवधि को 18-01-2014 तक, इस कार्यालय में कार्यभार संभालने की तारीख अर्थात् 19-01-2011 से तीन वर्ष की अवधि के पूरा होने तक, बढ़ाया जाता है ।

[फा. सं. 7/1/2012-बीओ-1]

श्रेया गुहा, निदेशक

(Department of Financial Services)

New Delhi, the 25th February, 2013

S.O. 541 .—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 8 read with sub-section (4) of section 8 of the Reserve Bank of India Act, 1934 read with guidelines No. 18(52) EO/08 (ACC) dated 11-12-2008, approved by the Appointments Committee of the Cabinet, Shri Anand Sinha (DoB: 03-02-1951), appointed as Deputy Governor, Reserve Bank of India, vide this Departments notification of even number dated 18-01-2011, for a period upto 28-02-2013, even is hereby continued as Deputy Governor.

Reserve Bank of India until 18-01-2014 when he completes the tenure of three years from the date on which assumed office, i.e. 19-01-2011.

[F. No. 7/1/2012-BO-I]

SREYA GUHA, Director

नई दिल्ली, 26 फरवरी, 2013

का.आ. 542 .—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा, घोषणा करती है कि उक्त अधिनियम की धारा 10 की उपधारा (1) के खण्ड (ग) के उपखण्ड (i) के उपबंध यूनियन बैंक ऑफ इंडिया पर लागू नहीं होंगे, जहां तक उनका संबंध बैंक के अध्यक्ष एवं प्रबंध निदेशक श्री डी. सरकार को बैंकिंग कार्मिक चयन संस्थान (आईबीपीएस) के शासी मंडल में सदस्य के रूप में नामित करने से है।

[फा. सं. 13/1/2012-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 26th February, 2013

S.O. 542 .—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendations of the Reserve Bank of India, hereby declare that the provisions of sub-clause (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Union Bank of India in so far as it relates to the nomination of Shri D. Sarkar, Chairman & Managing Director of the Bank for nomination as a Member on the Governing Board of Institute of Banking Personnel Selection (IBPS).

[F. No. 13/1/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

विदेश मंत्रालय

(सीपीबी प्रभाग)

नई दिल्ली, 28 फरवरी, 2013

का.आ. 543 .—राजनयिक और कांसलीय ऑफिसर (शपथ और फीस) के अधिनियम, 1948 की धारा 2 के खण्ड (क) के अनुसरण में केंद्र सरकार एतद्वारा श्री कुलदीप सिंह सोरेंग सहायक को 28-2-13 से भारत के सह-उच्चायोग, मोम्बासा सहायक कौंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं. टी. 4330/01/2006]

आर. के. पेरिन्डिया, अवर सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 28th February, 2013

S.O. 543 .—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorize Shri Kuldip Singh Soreng, Assistant in Assistant High Commission of India Mombasa, to perform the duties of Assistant Consular Officers with effect from 28th February, 2013.

[No. T. 4330/01/2006]

R. K. PERINDIA, Under Secy. (Consular)

नई दिल्ली, 28 फरवरी, 2013

का.आ. 544 .—राजनयिक और कांसलीय ऑफिसर (शपथ और फीस) के अधिनियम, 1948 की धारा 2 के खण्ड (क) के अनुसरण में केंद्र सरकार एतद्वारा श्री वी.जी. जोशी, पी. ए. और श्री आर. के. सिन्हा, जी.ए. को 28-2-13 से भारत के कोन्सलावास, मेलबार्न में सहायक कौंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं. टी. 4330/01/2006]

आर. के. पेरिन्डिया, अवर सचिव (कौंसुलर)

New Delhi, the 28th February, 2013

S.O. 544 .—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorize Shri V.G. Joshy, Personal Assistant, and Shri R.K. Sinha, GA in Consulate General of India, Melbourne to perform the duties of Assistant Consular officers with effect from 28th February, 2013.

[No. T. 4330/01/2006]

R. K. PERINDIA, Under Secy. (Consular)

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 18 फरवरी, 2013

का.आ. 545 .—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित 1987) के नियम 10 के उपनियम (4) के अनुसरण में दक्षिण पूर्व मध्य रेलवे के रायपुर मंडल के निम्नलिखित कार्यालयों को जहां 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करता है :-

क्रम सं.	कार्यालय का नाम
1.	डीजल लोको शेड, रायपुर
2.	विद्युत लोको शेड, भिलाई
3.	पी. पी. यार्ड, भिलाई

[सं. हिंदी-2013/रा.भा.-1/12/1]

के. पी. सत्यानंदन, निदेशक (राजभाषा)

MINISTRY OF RAILWAYS**(RAILWAY BOARD)**

New Delhi, the 18th February, 2013

S.O. 545.—Ministry of Railways (Railway Board), in pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (use for the official purpose of the Union) Rules, 1976 (as amended, 1987) hereby, notify the following Offices of Raipur Division of South Eastern Central Rly, where 80% or more Officers/Employees have acquired the working knowledge of Hindi :—

Sl. No.	Name of the Office
1.	Diesel Loco Shed, Raipur
2.	Electric Loco Shed, Bhilai
3.	P.P. Yard, Bhilai

[No. Hindi-2013/O.L-1/12/1]

K.P. SATYANANDAN, Director (O.L.)

नई दिल्ली, 27 फरवरी, 2013

का.आ. 546 .—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम, 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उपनियम (2) और (4) के अनुसरण में दक्षिण-पूर्व-मध्य रेलवे के बिलासपुर मंडल के निम्नलिखित कार्यालयों को जहां 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करता है :—

क्रम सं.	कार्यालय का नाम
(1)	(2)
1.	स्टेशन प्रबंधक (राजपत्रित), बिलासपुर
2.	प्राचार्य/विद्युत लोको प्रशिक्षण केंद्र, बिलासपुर
3.	अपर मुख्य चिकित्सा अधीक्षक, रायगढ़
4.	वरिष्ठ सहायक मंडल इंजीनियर, रायगढ़
5.	सहायक मंडल सिग्नल एवं दूरसंचार इंजीनियर, रायगढ़
6.	सहायक मंडल विद्युत इंजीनियर (कर्षण), शहडोल

(1)	(2)
7.	सहायक मंडल सिग्नल एवं दूरसंचार इंजीनियर, शहडोल
8.	सहायक मंडल इंजीनियर, उमरिया
9.	सहायक मंडल इंजीनियर, मनेन्द्रगढ़
10.	सहायक मंडल विद्युत इंजीनियर (कर्षण) मनेन्द्रगढ़
11.	अपर मुख्य चिकित्सा अधीक्षक, मनेन्द्रगढ़

[सं. हिन्दी-2013/रा.भा.-1/12/1]

के. पी. सत्यानंदन निदेशक, (राजभाषा)

New Delhi, the 27th February, 2013

S.O. 546 .—Ministry of Railways (Railway Board), in pursuance of Sub-Rule (2) and (4) of Rule 10 of the Official Language Rules, 1976 (use for the official purposes of the Union) hereby notify the following Offices of Bilaspur Division of Soth-East -Central Railway, where 80% or more Officers/Employees have acquired the working knowledge of Hindi:—

Sl. No.	Name of the Office
1.	Office of the Station Manager (Gazetted), Bilaspur.
2.	Office of the Principal Electric Loco Training Centre, Bilaspur
3.	Office of the Additional Chief Medical Superintendent, Raigarh
4.	Office of the Senior Assistant Divisional Engineer, Raigarh
5.	Office of the Assistant Divisional Signal of & Telecom Engineer, Raigarh
6.	Office of the Assistant Divisional Electric Engineer (TRD), Shadhol
7.	Office of the Assistant Divisional Signal & Telecom Engineer, Shadhol
8.	Office of the Assistant Divisional Engineer, Umaria
9.	Office of the Assistant Divisional Engineer, Manendragarh
10.	Office of the Assistant Divisional Electrical Engineer (TRD), Manendragarh
11.	Office of the Additional Chief Medical Superintendent, Manendragarh.

[No. Hindi-2013/O.L-1/12/1]

K. P. SATYANANDAN, Director (O.L.)

संचार और सूचना प्रौद्योगिकी मंत्रालय

(दूरसंचार विभाग)

(राजभाषा प्रभाग)

नई दिल्ली, 1 मार्च, 2013

का.आ. 547 .—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा-संशोधित 1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित किया जाता है।

1. कार्यालय, मुख्य-महाप्रबंधक, कार्यवाहिनी, पूर्वोत्तर क्षेत्र, गुवाहाटी-781001
2. कार्यालय, मुख्य-महाप्रबंधक, पश्चिमी दूरसंचार परियोजना, मुंबई-400054

[सं. ई. 11016/1/2009-रा.भा.]

भारत भूषण कौरा, संयुक्त सचिव

MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY

(Department of Telecommunications)

(OFFICIAL LANGUAGE DIVISION)

New Delhi, the 1st March, 2013

S.O. 547 .—In pursuance of rule 10(4) of the Official Language (use for official purpose of the Union) Rules, 1976, the Central Government hereby notifies the following offices under the administrative control of Ministry of Communications and I.T., Department of Telecommunications whereof more than 80 % staff have acquired working knowledge of Hindi.

1. Chief General Manager, North-East Task Force Circle, Guwahati-781001
2. Chief General Manager, Western Telecom Project, Mumbai-400054

[No. E. 11016/1/2009-O.L.]

BHARAT BHUSHAN KAURA, Jt. Secy.

(डाक विभाग)

नई दिल्ली, 25 मार्च, 2013

का.आ. 548 .—राजभाषा नियम (संघ के शासकीय प्रयोजनों के लिए प्रयोग), 1976 के नियम 10 के उप-नियम (4) के अनुसरण में केंद्र सरकार, डाक विभाग के अधीनस्थ कार्यालय मुख्य पोस्टमास्टर जनरल, केरल परिमंडल, तिरुवनन्तपुरम-695033 के निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:-

1. पोस्टमास्टर जनरल कार्यालय, उत्तरी क्षेत्र, कोझिकोड-673011
2. अधीक्षक रेल डाक सेवा कार्यालय, 'इ के' (केरल), कोच्चि-682001

[सं. 11017-1/2011-रा.भा.]

मीरा हांडा, उप महानिदेशक (फिलैटली/रा.भा.)

(Department of Posts)

New Delhi, the 25th February, 2013

S.O. 548 .—In pursuance of Rule 10(4) of the Official Language (use for official purposes of the Union) Rules, 1976 the Central Government hereby notifies following offices of the Office of the Chief Postmaster General, Kerala Circle, Thiruvananthapuram-695033 of the Department of Posts where 80% staff has acquired the working knowledge of Hindi:—

1. O/o the Postmaster General, Northern Region, Kozhikode-673011
2. O/o the Superintendent, RMS 'EK' Division (Kerala), Kochi-682011

[No. 11017-1/2011-O.L.]

MEERA HANDA, Dy. Director General (Philately/OL)

युवा कार्यक्रम और खेल मंत्रालय

नई दिल्ली, 28 फरवरी, 2013

का.आ. 549 .—केंद्रीय सरकार, एतद्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में युवा कार्यक्रम और खेल मंत्रालय के स्वायत्तशासी कार्यालय नेहरू युवा केंद्र संगठन-नेहरू युवा केंद्र, मुम्बई जिसके 80 प्रतिशत से अधिक कर्मचारीबुंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[पि.सं. ई-11011/2/2008-हि.ए.]

थंगलेमलियन, उप सचिव

MINISTRY OF YOUTH AFFAIRS AND SPORTS

New Delhi, the 28th February, 2013

S.O. 549 .—In pursuance of sub-rule (4) of Rule of 10 of Official Language (use for official purpose of the Union) Rule 1976, the Central Government hereby notifies Nehru Yuva Kendra Sangathan —Nehru Yuva Kendra, Mumbai, an autonomous office of Ministry of Youth Affairs & Sports, whereof more than 80% staff have acquired working knowledge of Hindi.

[F.No.E-11011/2/2008-H.U.]

THANGLEMLIAN, Dy. Secy.

वाणिज्य और उद्योग मंत्रालय
(औद्योगिक नीति और संवर्धन विभाग)

नई दिल्ली, 26 फरवरी, 2013

का.आ. 550 .— केंद्र सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 20 के साथ पठित धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस प्रयोजन के लिए संपदा अधिकारियों के रूप में सरकार के राजपत्रित अधिकारी होने के नाते भारत सरकार के पूर्ववर्ती निर्माण, आवास एवं पूर्ति मंत्रालय की दिनांक 28 जनवरी, 1959 की अधिसूचना सं. का. आ. 307 में निम्नलिखित संशोधन करती है :—

नीचे दी गई तालिका में उक्त अधिसूचना की क्र. सं. 26 के भाग (ग) के स्थान पर कॉलम 1 व 2 में प्रविष्टियों के लिए निम्नलिखित प्रतिस्थापित किया जाएगा :—

तालिका

(1)	(2)
“(ग) उप नमक आयुक्त, मुंबई अथवा नियमित उप नमक आयुक्त की अनुपस्थिति में उप नमक आयुक्त के कार्यालय में तैनात वरिष्ठतम सहायक नमक आयुक्त	महाराष्ट्र, कर्नाटक राज्यों तथा गोवा केंद्र शासित क्षेत्र में स्थित नमक विभाग के प्रशासनिक नियंत्रणाधीन परिसर।”

[सं. 12016/1/2009-नमक]

संजीवनी ताम्हणे, उप सचिव

नोट : मूल अधिसूचना सं. का. आ. 307, दिनांक 28-01-1959 को जारी की गई थी तथा पिछली बार इसे सं. का. आ. 638, दिनांक 10-02-1984 द्वारा संशोधित किया गया था।

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Industrial Policy and Promotion)

New Delhi, the 26th February, 2013

S.O. 550 .—In exercise of the powers conferred by Section 3 read with Section 20 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby makes the following amendments to the notification of the Government of India in the erstwhile Ministry of Works, Housing and Supply number S. O. 307 dated the 28th January, 1959 being Gazetted Officers of Government to the Estate Officers for the purpose, namely :—

In the Table below the said notification, for entries in columns 1 and 2 against Part (c) of serial number 26, the following shall be substituted, namely :—

TABLE

(1)	(2)
“(C) Deputy Salt Commissioner, Mumbai or Senior most Assistant Salt Commissioner posted in the office of the Deputy Salt Commissioner in the absence of regular Deputy Salt Commissioner.	Premises under the administrative control of the Salt Department situated in the States of Maharashtra, Karnataka and the Union Territory of Goa.”

[No. 12016/1/2009-Salt]

SANJIVANI TAMHANE, Dy. Secy.

Note :— The principal notification was issued vide No. S. O. 307 dated 28-01-1959 and was last amended vide No. S. O. 638 dated 10-02-1984.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 20 फरवरी, 2013

का.आ. 551.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है, वह स्थापित हो गया है :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 16023: 2012/ आई एस ओ 4387: 2000 सिगरेट —नेमी विश्लेषणात्मक धूम्रपान मशीन के प्रयोग से सकल एवं निकोटीन-मुक्त शुष्क परटीकुलेट द्रव्य ज्ञात करना	—	31 दिसंबर 2012
2.	आई एस 16025: 2012/ आई एस ओ 10315: 2000 सिगरेट —धूम्र संधनित पदार्थ में निकोटीन ज्ञात करना — गैस क्रोमेटोग्राफिक पद्धति	—	31 दिसंबर 2012
3.	आई एस 16026: 2012/ आई एस ओ 15152: 2003 तम्बाकू —निकोटीन के रूप में सकल एल्कलाइड अंश ज्ञात करना — सतत-प्रवाह विश्लेषण पद्धति	—	31 दिसंबर 2012
4.	आई एस 16042 (भाग-1): 2012/ आई एस ओ 10362-1: 1999 सिगरेट —धूम्र संधनित पदार्थ में जल ज्ञात करना — भाग-1: गैस क्रोमेटोग्राफिक पद्धति	—	31 दिसंबर 2012

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई, तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ एफएडी/जी-128।

डॉ. आर. के. बजाज, वैज्ञानिक 'एफ' एवं प्रमुख (खाद्य एवं कृषि)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 20th February, 2013

S.O. 551.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed has been established on the date indicated against it :

SCHEDULE

Sl. No.	No. and Year of the Indian Standard Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 16023:2012/ISO 4387: 2000 Cigarettes— Determination of total and nicotine-free dry particulate matter using a routine analytical smoking machine	—	31 December 2012
2.	IS 16025:2012/ISO 10315: 2000 Cigarettes— Determination of nicotine in smoke condensates— Gas chromatographic method	—	31 December 2012
3.	IS 16026:2012/ISO 15152: 2003 Tobacco— Determination of the content of total alkaloids as nicotine — Continuous-flow analysis method	—	31 December 2012
4.	IS 16042 (Part-1):2012/ISO 10362-1: 1999 Cigarettes—Determination of water in smoke condensates—Part-1 : Gas chromatographic method	—	31 December 2012

Copy of this Standard are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. FAD/G-128]

Dr. R. K. BAJAJ, Scientist 'F' & Head (Food & Agri.)

नई दिल्ली, 22 फरवरी, 2013

का.आ. 552.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं।

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 9297:1979 बांधों के अंदर प्रकाश, वेंटिलेशन, और अन्य सुविधायों के लिए सिफारिशें	संशोधन संख्या 2, फरवरी 2013	28 फरवरी 2013

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> पर इंटरनेट द्वारा खरीदा जा सकता है।

[संदर्भ डब्ल्यू आर डी 09/टी-11]

जे. सी. अरोड़ा, वैज्ञानिक 'एफ' एवं प्रमुख (जल संसाधन विभाग)

New Delhi, the 22nd February, 2013

S.O. 552.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the amendments to the Indian Standard, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl.No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 9297: 1979 Recommendations for lighting, ventilation and other facilities inside dams	Amendment No. 2 February 2013	28th February, 2013

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram. On line purchase of Indian Standard can be made at :<http://www.standardsbis.in>.

[Ref. WRD 09/T-11]

J. C. ARORA, Scientist 'F' & Head (Water Resources Deptt.)

नई दिल्ली, 22 फरवरी, 2013

का.आ. 553.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानक के संशोधन के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :-

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 13953:1994 खाँडसारी – विशिष्ट	संशोधन संख्या 2, वर्ष 2013	28 फरवरी, 2013

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ एफएडो/जी-128]

डॉ. आर. के. बजाज, वैज्ञानिक 'एफ' एवं प्रमुख (खाद्य एवं कृषि)

New Delhi, the 22nd February, 2013

S.O. 553.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl.No.	No. and year of the Indian Standard	No. and year of the Amendment	Date of which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 13953 : 1994 Khandsari — Specification	Amendment No. 2, Year 2013	28th February, 2013

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. FAD/G-128]

Dr. R. K. BAJAJ, Scientist 'F' & Head (Food & Agri.)

नई दिल्ली, 25 फरवरी, 2013

का.आ. 554.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि भारतीय मानक के विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1121 (भाग 1): 2013 प्राकृतिक निर्माण पत्थरों के सामर्थ्य गुणों को ज्ञात करना — परीक्षण पद्धतियाँ भाग 1 संपीडन सामर्थ्य (दूसरा पुनरीक्षण)	आई एस 1121 (भाग 1): 1974 प्राकृतिक निर्माण पत्थरों के सामर्थ्य गुणों को ज्ञात करना — परीक्षण पद्धतियाँ भाग 1 संपीडन सामर्थ्य (पहला पुनरीक्षण)	31 जनवरी, 2013
2.	आई एस 1121 (भाग 2): 2013 प्राकृतिक निर्माण पत्थरों के सामर्थ्य गुणों को ज्ञात करना — परीक्षण पद्धतियाँ भाग 2 अनुप्रस्थ सामर्थ्य (दूसरा पुनरीक्षण)	आई एस 1121 (भाग 2): 1974 प्राकृतिक निर्माण पत्थरों के सामर्थ्य गुणों को ज्ञात करना — परीक्षण पद्धतियाँ भाग 2 अनुप्रस्थ सामर्थ्य (पहला पुनरीक्षण)	31 जनवरी, 2013
3.	आई एस 1121 (भाग 4): 2013 प्राकृतिक निर्माण पत्थरों के सामर्थ्य गुणों को ज्ञात करना — परीक्षण पद्धतियाँ भाग 4 कर्तन सामर्थ्य (दूसरा पुनरीक्षण)	आई एस 1121 (भाग 4): 1974 प्राकृतिक निर्माण पत्थरों के सामर्थ्य गुणों को ज्ञात करना — परीक्षण पद्धतियाँ भाग 4 कर्तन सामर्थ्य (पहला पुनरीक्षण)	31 जनवरी, 2013

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002; क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ सीईडी/राजपत्र]

डॉ. के. अग्रवाल, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 25th February, 2013

S.O. 554.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standard, particulars of which are given in the Schedule hereto annexed has been established on the date indicated against it :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established and Title	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date when Established
(1)	(2)	(3)	(4)
1.	IS 1121 (Part 1): 2013 Determination of strength properties of natural building stones — Methods of test : Part 1 Compressive strength (Second revision)	IS 1121 (Part 1): 1974 Methods of test for determination of strength properties of natural building stones : Part 1 Compressive strength (First revision)	31 January, 2013
2.	IS 1121 (Part 2): 2013 Determination of strength properties of natural building stones — Methods of test : Part 2 Transverse strength (Second revision)	IS 1121 (Part 2): 1974 Methods of test for determination of strength properties of natural building stones : Part 2 Transverse strength (First revision)	31 January, 2013
3.	IS 1121 (Part 4): 2013 Determination of strength properties of natural building stones — Methods of test : Part 4 Shear strength (Second revision)	IS 1121 (Part 1): 1974 Methods of test for determination of strength properties of natural building stones : Part 4 Shear strength (First revision)	31 January, 2013

Copy of this Standard are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. CED/Gazette]

D. K. AGRAWAL, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 28 फरवरी, 2013

का.आ. 555 .—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस/आईएसओ/आईईसी 2382-36: 2008 सूचना प्रौद्योगिकी—शब्दावली भाग 36 प्रशिक्षण	—	दिसम्बर, 2012
2.	आईएस 11137 (भाग 2): 2012/आईएसई 60812: 2006 पद्धति विश्वसनीयता के लिए विश्लेषण तकनीकें भाग 2 विफलता प्रकार एवं प्रभाव विश्लेषण हेतु प्रक्रिया (एफ.एम.ई.ए) (पहला पुनरीक्षण)	—	दिसम्बर, 2012
3.	आईएस 14990 (भाग 1): 2012/आईएसओ/आईईसी 15408-1: 2009 सूचना प्रौद्योगिकी—सुरक्षा तकनीकें—सूचना प्रौद्योगिकी की सुरक्षा के लिए मूल्यांकन के मापदंड भाग 1 परिचय एवं सामान्य मॉडल (दूसरा पुनरीक्षण)	—	दिसम्बर, 2012
4.	आईएस 15580: 2012/आईएसओ/आईईसी 21827: 2008 सूचना प्रौद्योगिकी—सुरक्षा तकनीक—सुरक्षा तंत्र इंजीनियरिंग – क्षमता परिपक्वता प्रतिरूप (एस.एस.ई.सी.एम.एम.) (पहला पुनरीक्षण)	—	दिसम्बर, 2012
5.	आईएस/आईएसओ/आईईसी 24751-1: 2008 सूचना प्रौद्योगिकी— ई शिक्षण, शिक्षा और प्रशिक्षण में व्यक्तिगत पहुँच और अनुकूलनशीलता भाग 1 फ्रेमवर्क और संदर्भ मॉडल	—	दिसम्बर, 2012
6.	आईएस/आईएसओ/आईईसी 24751-1: 2008 सूचना प्रौद्योगिकी— ई शिक्षण, शिक्षा और प्रशिक्षण में व्यक्तिगत पहुँच और अनुकूलनशीलता भाग 2 “सभी के लिए पहुँच” वैयक्तिक आवश्यकता और डिजिटल विवरण के लिए वरीयतायें	—	दिसम्बर, 2012
7.	आईएस/आईएसओ/आईईसी 24751-3: 2008 सूचना प्रौद्योगिकी— ई शिक्षण, शिक्षा और प्रशिक्षण में व्यक्तिगत पहुँच और अनुकूलनशीलता भाग 3 “सभी के लिए पहुँच” डिजिटल संसाधन विवरण	—	दिसम्बर, 2012

(1)	(2)	(3)	(4)
8.	आईएस/आईसी 61196-1-310:2005 समाक्ष संचार केबल भाग 1-302 यांत्रिक परीक्षण विधियाँ- तांबा चढ़ी धातुओं की मरोड़ विशेषताओं के लिये परीक्षण	—	दिसम्बर, 2012
9.	आईएस/आईसी 61965: 2003 कैथोड किरण द्यूब की सुरक्षा	—	दिसम्बर, 2012

इन भारतीय मानकों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ एल आई टी डी/जी-75]

पी. राधाकृष्णा, वैज्ञानिक 'एफ' एवं प्रमुख (इलेक्ट्रॉनिक्स एवं आई.टी.)

New Delhi, the 28th February, 2013

S.O. 555.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS/ISO/IEC 2382-36:2008 Information technology- Vocabulary Part 36 learning education and training	—	Dec, 2012
2.	IS 11137 (Part 2): 2012/IEC 60812:2006 Analysis techniques for system reliability Part 2 Procedure for failure mode and effects analysis (FMEA) (First Revision)	—	Dec, 2012
3.	IS 14990 (Part 1):2012/ISO/IEC 15408-1:2009 Information technology-Security techniques-Evaluation criteria for it security Part 1 Introduction and general model (Second Revision)	—	Dec, 2012
4.	IS 15580:2012/ISO/IEC 21827:2008 Information technology-Security techniques-Systems security engineering— Capability maturity model (SSE-CMM) (First Revision)	—	Dec, 2012
5.	IS/ISO/IEC 24751-1: 2008 Information Technology—Individualized adaptability and accessibility in E-Learning education and training Part 1 Framework and reference model	—	Dec, 2012

(1)	(2)	(3)	(4)
6.	IS/ISO/IEC 24751-1: 2008 Information Technology—Individualized adaptability and accessibility in E-Learning education and training Part 2 “Access For All” Personal needs and preferences for digital delivery	—	Dec, 2012
7.	IS/ISO/IEC 24751-1: 2008 Information Technology—Individualized adaptability and accessibility in E-Learning education and training Part 3 “Access For All” Digital resources description	—	Dec, 2012
8.	IS/IEC 61196-1-310:2005 Coaxial communication cables Part 1-310 Mechanical test methods—Test for torsion characteristics of Copper-Clad Metals	—	Dec, 2012
9.	IS/IEC 61965:2003 Mechanical safety of cathode ray tubes	—	Dec, 2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. LITD/G-75]

P. RADHAKRISHNA, Scientist 'F' & Head (LITD)

नई दिल्ली, 28 फरवरी, 2013

का.आ. 556.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए मानक (को) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 15245:2002 डिजिटल सेट अप बाक्स-विनिर्देश	संशोधन संख्या 2, फरवरी, 2013	तुरंत

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को :<http://www.standardsbis.in> पर इंटरनेट द्वारा खरीदा जा सकता है।

[संदर्भ एल आई टी डी/जी-75]

पी. राधाकृष्णा, वैज्ञानिक 'एफ' एवं प्रमुख (इलेक्ट्रॉनिकी एवं आई टी)

New Delhi, the 28th February, 2013

S.O. 556.—In pursuance of clause (b) of sub-rule (1) of Rules 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment, to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl.No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
I.	IS 15245:2002 Digital set top box - specification	Amendment No. 2 February 2013	with immediate effect

Copies of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram. On line purchase of Indian Standard can be made at: <http://www.standardsbis.in>.

[Ref. LITD/G-75]

P. RADHAKRISHNA, Scientist 'F' & Head (LITD)

नई दिल्ली, 28 फरवरी, 2013

का.आ. 557.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में एतद्वारा अधिसूचित किया जाता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं और वापस ले लिये गये हैं :

अनुसूची

क्रम सं.	रद्द किये गये मानक की संख्या और वर्ष	भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) में का.आ. संख्या और तिथि प्रकाशित	टिप्पणी
(1)	(2)	(3)	(4)
1.	आईएस/आईएसओ/आईईसी 13335-1(2004) सूचना प्रौद्योगिकी-सुरक्षा तकनीक-सूचना और संचार प्रौद्योगिकी-सुरक्षा प्रबंधन के लिए सूचना और संचार प्रौद्योगिकी सुरक्षा के प्रबंधन-भाग 1 मॉडल और अवधारणाओं	—	बेस मानक 27005 : 2011 आईएसओ/आईईसी जो गोद लेने के लिए पहले से ही भारतीय मानक के रूप में प्रतिस्थापित किया गया है अतः 31 दिसम्बर 2012 से स्थगित है

[संदर्भ एल आई टी डी/जी-75]

पी. राधाकृष्णा, वैज्ञानिक 'एफ' एवं प्रमुख (इलेक्ट्रॉनिक्स एवं आई टी)

New Delhi, the 28th February, 2013

S.O. 557.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, it is, hereby notified that the Indian Standards, particulars of which are mentioned in the Schedule given hereafter, have been cancelled and stand withdrawn.

SCHEDULE

Sl. No.	No. and year of the Indian Standards Cancelled	S. O. No. and Date published in the Gazette of India, Part-II, Section-3, Sub-section (ii)	Remarks
(1)	(2)	(3)	(4)
1.	IS/ISO/IEC 13335-1 (2004) Information Technology—Security Techniques—Management of Information and Communications Technology Security—Part 1 Concepts and models for information and communication technology security management	—	Base standard has been replaced by ISO/IEC 27005 : 2011 which has already been taken up for adoption as Indian Standard. Withdrawn from 31 December, 2012

[Ref. LITD/G-75]

P. RADHAKRISHNA, Scientist 'F' & Head (LITD)

कोयला मंत्रालय**आदेश**

नई दिल्ली, 28 फरवरी, 2013

का.आ. 558.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के कोयला मंत्रालय द्वारा अधिसूचना संख्यांक का.आ. 1566, तारीख 26 अप्रैल, 2012 जो भारत के राजपत्र भाग-II, खण्ड-3, उप-खण्ड (ii), तारीख 5 मई, 2012 में प्रकाशित होने पर उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) में उन पर कार्य करने और उन्हें ले जाने के लिए अधिकार, उक्त अधिनियम की धारा 10 की उप-धारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और केन्द्रीय सरकार का समाधान हो गया है, कि वेस्टर्न कोलफील्ड्स लिमिटेड, नागपुर (जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है) ऐसे निबंधनों और शर्तों का जिन्हें केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए रजामंद है।

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम 1957 की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि इस प्रकार निहित उक्त भूमि में के पूर्वोक्त अधिकार केन्द्रीय सरकार में इस प्रकार निहित उक्त भूमि में के पूर्वोक्त अधिकार केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बजाए, तारीख 5 मई, 2012 से निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, सरकारी कंपनी में निहित हो जाएंगे, अर्थात् :-

(1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, ब्याज, नुकसानियों और वैसी ही मदों की बाबत किए गए संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी ;

(2) सरकारी कम्पनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिसूचना की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता करने के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कम्पनी द्वारा वहन किए जाएंगे और इसी प्रकार निहित उक्त भूमि में

या उस पर के अधिकारों के लिए या उनके संबंध में अपील आदि सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, सरकारी कंपनी द्वारा वहन किए जाएंगे;

(3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी, जो इस प्रकार निहित उक्त भूमि में या उस पर के पूर्वोक्त अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा तथा उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो ;

(4) सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि में पूर्वोक्त अधिकारों को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी ; और

(5) सरकारी कंपनी ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं, पालन करेगी ।

[फा. सं. 43015/33/2009-पीआरआईडब्ल्यू-1]

वी. एस. राणा, अवर सचिव

MINISTRY OF COAL

ORDER

New Delhi, the 28th February, 2013

S.O. 558.—Whereas, on the publication of the notification of the Government of India in the Ministry of Coal, number S. O. 1566, dated the 26th April, 2012, in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 5th May, 2012, issued under sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land and the rights in or over the land described in the Schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under subsection (1) of Section 10 of the said Act;

And whereas the Central Government is satisfied that the Western Coalfields Limited, Nagpur (hereinafter referred to as the Government company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 11 of the said Act, the Central Government hereby direct that the said land and the rights in or over the said land so vested shall, with effect from dated the 5th May, 2012, instead of continuing to so vest in the Central Government, vest in the Government company, subject to the following terms and conditions, namely :—

(1) the Government company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;

(2) a Tribunal shall be constituted under Section 14 of the said Act, for the purpose of determining the amounts payable to the Central Government by the Government company under condition (1), and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the said Tribunal shall be borne by the Government company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in or over the said land, so vested, shall also be borne by the Government Company;

(3) the Government company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said land so vested;

(4) the Government company shall have no power to transfer the land and the rights in or over the said land so vested, to any other person without the prior approval of the Central Government; and

(5) the Government company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said land as and when necessary.

[F. No. 43015/33/2009 - PRIW - I]

V. S. RANA, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 4 फरवरी, 2013

का.आ. 559.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं.-1, दिल्ली के पंचाट (संदर्भ संख्या 251/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-1-2013 को प्राप्त हुआ था।

[सं. एल-12012/192/99-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 4th February, 2013

S.O. 559.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.No. 251/2011) of the Central Government Industrial Tribunal-No.I, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India, and their workman, which was received by the Central Government on 21-1-2013.

[No. L-12012/192/99-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, DELHI**

I. D. No. 251/2011

Shri Chiranji Lal
S/o Sh. Mauji, V& P. O. Jharsa
Gurgaon, Haryana.

... Workman

Versus

The Dy. General Manager,
Union Bank of India,
Shaheed Bhagat Singh Place,
Gole Market,
New Delhi-110001.

... Management

AWARD

A daily wager was appointed on casual basis, in case of exigencies at extension counter, being run at Sector 31-32 Gurgaon, Haryana by the Union Bank of India (in short the bank). He worked at that counter, as and when engaged. Subsequently, the extension counter was upgraded to a regular branch. In that branch too, he was

engaged in case of exigencies as casual labour. After 9-11-1996, he was not engaged by the bank at all. Aggrieved by that act, the daily wager raised a demand for reinstatement in service. When his demand was not conceded to, he raised an industrial dispute before the Conciliation Officer. The bank contested his claim and as such, conciliation proceedings ended into failure. On consideration of failure report, submitted by the conciliation officer, appropriate Government referred the dispute to this Tribunal for adjudication, vide order No.L-12012/192/99-IR(B-II), New Delhi on 17-11-1999, with following terms:

"Whether the action of the management of Union Bank of India in terminating the services of Shri Chiranji Lal, Peon, with effect from 9-11-996 is legal and justified? If not, to what relief the workman is entitled to?"

2. The daily wager, namely, Shri Chiranji Lal filed claim statement pleading therein that he was appointed by the bank as peon with effect from 4-8-1993. He worked at extension counter of the bank, being run at Sector 31-32 Gurgaon, Haryana. Subsequently, that extension counter was upgraded to a regular branch and he worked in that branch too. He rendered continuous service with the bank. His services were abruptly terminated on 9-1-96 without giving any notice or pay in lieu thereof. Retrenchment compensation was also not paid to him. Termination of his services is violative of provisions of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act). At the time of termination of his service, he was drawing Rs.900.00 per month as his wages. He claims reinstatement in service with continuity and full back wages.

3. His claim was demurred by the bank pleading that the claimant was never appointed at extension counter at Jharsa Road, Gurgaon. Claim put forward by Shri Chiranji Lal is unfounded. The bank, in order to fill identified vacancies, has to make indent to local employment exchange for getting names sponsored. When names of candidates are sponsored, they are interviewed and selected candidates are empanelled. They are appointed thereafter against regular or even temporary vacancies. No such procedure ever took place in respect of appointment of the claimant. Since claimant was never appointed by the bank, there was no occasion for him to render continuous service with the bank from 4-8-93 to 9-11-96. His claim is based on false fact, hence deserves dismissal.

4. Vide order No.Z-2019/6/2007-IR(CM-II), New Delhi, dated 11-2-2008, case was transferred to Central Government Industrial Tribunal No.2, New Delhi for adjudication by the appropriate Government. It was retransferred to this Tribunal for adjudication, vide order No.L-12012/192/99-IR(B-II), New Delhi dated 30-3-2011, by the appropriate Government.

5. Claimant has examined himself in support of his claim. Shri B.B. Gupta, Chief Manager, was examined by

the bank to refute the claim. No other witness was examined by either of the parties.

6. Arguments were heard at the bar. Shri Roopesh Sharma, authorised representative, advanced arguments on behalf of the claimant. Shri Pawan Behl, authorised representative, presented facts on behalf of the bank. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the records. My findings on issues involved in the controversy are as follows:

7. In his affidavit Ex.WW1/A, tendered as evidence, claimant swears that he was appointed as a peon by the bank on 4-8-1993. He was directed to work at extension counter located at Sector 31-32 Gurgaon, Haryana. On 25-3-96, full fledged branch was opened at Sector 31-32 Gurgaon, Haryana. He served the bank from 4-8-93 to 9-11-96 continuously. He was drawing a sum of Rs.900.00 per month as his wages. His services were terminated on 9-1-1996, in an illegal manner. No notice or pay in lieu thereof and retrenchment compensation was given to him. He relied photocopy of cash vouchers, which are Ex.WW1/1 to Ex.WW1/287 in support of his claim. During cross examination, he concedes that he never applied for the post of peon with the bank. He makes a candid admission that his name was not sponsored by the employment exchange for employment with the bank. He had no option but to admit that no document was placed by him to show that he was getting Rs.900.00 per month as his salary.

8. Shri B.B. Gupta swears in his affidavit Ex.MW1/A, tendered as evidence, that the claimant was never appointed by the bank as peon. There was no power with the branch manager to appoint a peon. Claimant was engaged for casual jobs in exigencies. He was paid for that work through payment vouchers. Salary of Rs.900.00 was never paid to him. He admits that on 4-8-1993, there may be extension counter of the bank at Sector 31-32, Gurgaon, Haryana.

9. When facts unfolded by the claimant and Shri Gupta are appreciated, it emerged over the record that the claimant was engaged often and then for casual jobs. His wages were paid through vouchers. Claimant had filed photocopies of certain vouchers, proved as Ex.WW1/1 to Ex.WW1/287. When these vouchers are perused, it came to light that certain vouchers, filed by the claimant, are in duplicate or triplicate. When these vouchers are scanned, engagement of the claimant by the bank for casual jobs in exigencies emerges. He was paid through vouchers referred above, as and when his services were availed by the bank. When services of the claimant were availed by the bank in exigencies, it does not lie in its mouth to assert that relationship of employer and employee never existed between the parties. Even a temporary engagement establishes relationship of employer and employee between the parties. Therefore, it is concluded that the claimant has

been able to establish that he was engaged by the bank to do casual jobs.

10. Whether the claimant could project that he rendered continuous service for a period of 240 days in any of the calendar year from 1985 till 1994? For an answer to this proposition, it would be ascertained as to what continuous services means. "Continuous Service" has been defined by Section 25-B of the Industrial Disputes Act, 1947 (in short the Act). Under sub-section (1) of the said Section, "continuous service for a period" may comprise of two period viz.(i) uninterrupted service, and (ii) interrupted service on account of (a) sickness,(b) authorized leave, (c) an accident, (d) a strike which is not legal, (e) a lock-out, and (f) a cessation of work that is not due to any fault on the part of the workman, shall be included in the "continuous -service." Sub-section (2) of the said section introduces a fiction to the effect that even if a workman is not in "continuous service" within the meaning of clause (1) for a period of one year or six months, he shall be deemed to in continuous service for that period under an employer if he has actually worked for the days specified in clauses (a) and (b) thereof. In Vijay Kumar Majoo (1968 Lab.I.C,1180) it was held that one year's period contemplated by sub-section (2) furnished a unit of measure and if during that unit of measure the period of service actually rendered by the workman is 240 days, then he can be considered to have rendered one year's continuous service for the purpose of the Section. The idea is that if within a unit period of one year a person had put in at least 240 days of service, then he must get the benefit conferred by the Act. Consequently, an enquiry has to be made to find out whether the workman actually worked for not less than 240 days during the period of 12 calendar months immediately preceding the retrenchment.

11. In Ramakrishna Ramnath [1970 (2) I.L.J 306], Apex Court announced that when a workman renders continuous service of not less than 240 days in 12 calendar months, he is deemed to have completed one years' service in the industry. It would be expedient to reproduce observations made by the Apex Court in that regard, which are extracted thus:

"Under. Section 25-B a workman who during the period of 12 calendar months has actually worked in an industry for not less than 240 days is to be deemed to have completed one year's service in the industry. Consequently an enquiry has to be made to find out whether the workman had actually worked for not less than 240 days during period of 12 calendar months immediately preceding the retrenchment. These provisions of law do not show that a workman after satisfying the test under Section 25-B has further to show that he has worked during all the period he has been in the service of the employer for 240 days in the year".

12. When the workman concerned fails to establish that he worked for atleast 240 days in the year, he cannot claim protection against termination of his services in order to seek regularization of his services on monthly salary with benefits like pension, gratuity etc. Interruption of service occurred during the course of job has to be included in uninterrupted services. Fiction under Section 25-B of the Act will operate if workmen has actually worked for 240 days in a calendar year. The explanation appended to Section 25B of the Act specifically includes the days on which workman was laid off under an agreement or he has been on leave with full wages, or he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment and in the case of a female, maternity leave, under the expression 'actually worked' used under sub-section 2 of Section 25 B of the Act. Question for consideration comes as to whether the words 'actually worked' would not include holidays, Sundays and Saturdays for which full wages are paid. Apex Court was comprehended with such a proposition in American Express Banking Corporation [1985(2) LLJ 539]. It was ruled therein that the expression 'actually worked under the employer' cannot mean those days only when the workman worked with hammer, sickle or pen, but must necessarily comprehend all those days during which he was in the employment of the employer and for which he had been paid wages either under express or implied contract of service or by compulsion of statute, standing orders etc. Court ruled that Sundays and other holidays, would be comprehended in the words 'actual work' and its countenanced the contention of the employer that only days which are mentioned in the explanation should be taken into account for the purpose, of calculating the number of days on which the workmen had actually worked though he had not so worked and no other days. The court observed that the explanation is only clarificatory, as all explanations are, and cannot be used to limit the expanse of the main provision. Precedent in Lalappa Lingappa [1981 (1) LJ 308] was distinguished by the Apex Court in the case referred above. The precedent was followed in Standard Motor Products of India Ltd. [1986 (1) LLJ 34]. Thus, it is crystal clear from the law laid above that Sundays and holidays shall be included in computing continuous service under Section 25-B of the Act.

13. In the light of done law, an enquiry would be made as to whether the claimant could establish that he rendered continuous service of 240 days in preceding twelve month from the date of his disengagement. To carry out this exercise, evidence is to be scanned. Ocular facts unfolded by the claimant to the effect that he served the bank continuously are self serving words. Therefore these facts are to be appreciated in the light of other evidence, direct or circumstantial. Such evidence is brought over the record in the form of vouchers Ex.WW1/1 to Ex.WW1/287. When voucher, referred above, are closely perused in order to ascertain the period for which the claimant has worked

with the bank, it came to light that from 9-11-1996 to 8-11-1995 claimant had worked only for 68 days. Thus it is apparent that in preceding 12 months from the date of alleged termination of his service, the claimant had not rendered continuous service for 240 days. From 29-11-1995 to 9-11-1994, he had worked for 58 days only. In that period too, he has not rendered continuous service of 240 days to answer the continuity for period of one year service, as contemplated by Section 25B of the Act. Ocular facts, which are in contradiction of above documents, are not given any weight. Since continuous service of one year had not been rendered by the claimant with the bank, he is not entitled for protection of provisions of Section 25-F of the Act. Neither notice nor pay in lieu there was to be given to the claimant. His claim for retrenchment compensation has not ripened. Therefore, it does not lie in the mouth of the claimant to assert that termination of his services is violative of provisions of Section 25F of the Act.

14. It is not a case of the claimant that there were juniors to him, whose services were retained when he was allegedly bade fare well on 9-11-1996. For want of evidence in that regard, it is clear that provisions of Section 25G, of the Act were not to be complied with. It is also not his case that after termination of his service need for casual engagement arose with the bank. No evidence was brought to project that after his retrenchment, the bank employed anyone in casual capacity, without offering him an opportunity for re-employment. Under these circumstances, Provisions of Section 25H of the Act also have no application.

15. In view of the reasons detailed, it is crystal clear that action of the bank nowhere falls within the mischief of the Provisions of Section 25-F, 25-G and 25-H of the Act. No illegality or unjustifiability can be attributed to the action of the bank, when claimant was not engaged after 9-11-1996. The claimant is not entitled to any relief. His claim is brushed aside. An award is passed in favour of the bank and against the claimant. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated: 17-12-2012

नई दिल्ली, 11 फरवरी, 2013

का.आ. 560.—औद्योगिक विवाद अधिनियम, 1947 (2 ए सबसैक्शन 2) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर, टेलीकाम डिस्ट्रिक्ट पटियाला एण्ड अदर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-नं. 2 चडौगढ़, के पंचाट (संदर्भ संख्या 207/2011) प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2013 को प्राप्त हुआ था।

[सं. एल-42025/03/2013-आई आर (डी.यू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 11th February, 2013

S.O. 560.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (2A, Sub-section 2), the Central Government hereby publishes the Award (Ref. 207/2011) of the Central Government Industrial Tribunal/cum-Labour Court-No.II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the General Manager Telecom District BSNL Patiala and other and their workman, which was received by the Central Government on 5-2-2013.

[No. L-42025/03/2013-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II CHANDIGARH

Present: SRI A.K. RASTOGI, Presiding Officer.

Case No. I. D. 207/2011

Registered on 12-7-2011

Shri Jatinder Pal S/o Sh. Kalu Rami R/o H.No.53 Nawi Abadi, Ward No.17, Tehsil Khanna, District- Ludhiana (Punjab).

...Petitioner

Versus

1. General Manager Telecom "District", Bharat Sanchar Nigam Ltd., Patiala.

2. Divisional Engineer, Phones (Administration) O/o General Manager Telecom "District" (BSNL), Mandi Gobindgarh.

...Respondent

APPEARANCES

For the workman : None.

For the Management : M/s. Deepali Puri, Advocate.

AWARD

Passed on 19th December. 2012

This is a claim under Section 2A, sub-section (2) of the Industrial Disputes Act, 1947.

According to the workman he had been engaged as daily rated mazdoor/ Safai Karamchari by Divisional Engineer, Phones (Administration) Department of Telecommunication in March 1997 on muster roll and his services were illegally terminated by the management on 24-5-1983. The workman and, his other colleagues had approached the Hon'ble Central Administrative Tribunal and Hon'ble High Court but he could not get any relief. In the absence of relevant record regarding his engagement

with the management and being less educated and being a daily wager he failed to prove the fact that he had been engaged directly by the management and not through the contractor. He then filed a demand notice before the Assistant Labour Commissioner Chandigarh on 20-2-2011 and since the said demand notice was not adjudicated by the said officer within the prescribed period of 45 days as provided in the Act, hence, the workman filed the present claim for a declaration from the Tribunal that he had been engaged directly by the management-department of Telecom and not through contractor. He has also prayed for his reinstatement with all consequential benefits including backwages etc.

The claim was contested and it was stated in the written statement that the workman has no locus standi as he has never been engaged by the department. There is no relationship of master and servant. BSNL enters into contracts for getting the petty jobs done through the contractor and the contractor engages the persons for the performance of the job under the contract. The workman was neither engaged as a daily rated mazdoor/chowkidar by the department nor remained on scroll. Therefore the claim petition is frivolous and not maintainable. The workman might have been engaged by the contractor in pursuance of any contract but the BSNL cannot verify even his engagement by the contractor as no service record is maintained by the BSNL in respect of such persons. The workman and nine other persons had filed OA No.671/PB/1999 titled as Pavitter Singh and Others vs. Union of India in the Central Administrative Tribunal for seeking regularization and temporary status in the department but the same was disposed with the direction to the BSNL to consider their cases for grant of temporary status within a period of two months and accordingly the case of the workman was carefully examined and considered as per direction of the CAT, Chandigarh Bench and was rejected vide order dated 16-1-2002. Now the claim of the workman has no merits.

After filing of the reply by the management the workman did not appear. His counsel also withdrew from the case on 11-6-2012. The workman failed to appear despite notice sent by registered post to him on 11-6-2012. Notice not received back undelivered. Hence service was presumed on him.

I have heard the learned counsel for the management. The workman did not produce any evidence in support of its case. There is no evidence to show that he had been engaged by the management and there was a relationship of master and servant between the management and the workman. His claim under Section 2A, sub-section (2) of the Industrial Disputes Act, 1947 therefore fails. It is accordingly rejecte.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

SCHEDULE

का.आ. 561.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 15/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-22012/57/1998-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 561.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 12-2-2013.

[No. L-22012/57/1998-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

PRESENT : Sri Jayanta Kumar Sen, Presiding Officer

REFERENCE No. 15 OF 1999

PARTIES:

The management of Haripur Colly., M/s. ECL, Burdwan(WB)

Vs.

The Treasurer, CMU, Ukhra (WB)

REPRESENTATIVES:

For the management : None

For the union (Workman): None

INDUSTRY : COAL STATE: WEST BENGAL

Dated - 3-1-13

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L-22012/57/98-I.R.(CM-II) dated 21-1-1998 has been pleased to refer the following dispute for adjudication by this Tribunal.

"Whether the action of the management of Haripur Colliery of M/s. ECL in not paying the O.T. wages for the period from April, 91 to Sh. Pravu Prasad and 91 others is legal and justified? If not, to what relief the workmen are entitled?"

Having received the Order of Letter No.L-22012/57/98-I.R.(CM-II) dated 21-10-1998 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 1 of 1999 was registered on 2-2-1999 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, it has been found that the Union/workman is not taking any step since 2007. It seems that the workman is now no more interested to proceed with the case any further. As such, the case is closed and accordingly an order of "No Dispute Award" is hereby passed.

ORDER

Let an "Award" be and the same is passed as "No Dispute" existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 562.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 935/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-22012/520/1996-आई आर (सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 562.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 935/2005) of the Central Government Industrial Tribunal-cum-Labour Court No.2, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of FCI and their workman, which was received by the Central Government on 12-2-2013.

[No. L-22012/520/1996-IR (C-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri A.K Rastogi, Presiding Officer

Case No. I. D. 935/2005

Registered on 14-9-2005

Sh. Harbans Lal S/o Sh. Shingara, Village, P.O. Sheikh pur,
Distt. Kapurthala

....Petitioner

Versus

District Manager, FCI, Kapurthala, Punjab.

....Respondent

APPEARANCES

For the Workman : Sh. R.K. Singh Parmar, A.R.

For the Management : Sh. Santokh Singh, Advocate.

AWARD

Passed on 18th January, 2011

Central Government vide Notification No. L-22012/520/96- IR(C-II) Dated 20.5.1998, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to the Tribunal:-

"Whether the action of the management of the FCI in terminating the services of Sh. Harbans Lal w.e.f. 9-8-1996 is Justified or not? If so, what relief workman is entitled to?"

As per claim statement the workman joined service in 1978 as a Handling Worker with the respondent but his services were terminated on 9-8-1996 without any notice or notice pay. While terminating his services juniors were retained and even after his termination fresh recruitment was made and the workman was not given any opportunity to serve. The management did not even join the conciliation proceedings in reply to his demand noticed dated 24-8-1996. The workman has claimed reinstatement with continuity of service and back wages.

The claim was contested by the management and it was denied that the workman had joined the services in 1978. It was also denied that his services were terminated on 1-8-1996. According to the management the workman has been absconding since 1-8-1996 without any intimation or leave.

In support of his case the workman examined himself while on behalf of the management Karam Chand, Sardar labour Gang No.1, FCI and G. Karthikeyan, District Manager, FCI, Kapurthala were examined. Management relied on certain papers also.

I have heard the AR and the learned counsel for the management and perused the evidence on record. Management has not denied the employment of the workman but according to it he is not in the employment of the management since 1978. In the written statement it has not been clarified as to from when the workman is in the employment of the management. However management-witness G. Karthikeyan has stated in his affidavit that the workman had joined the service in 1995. From the affidavit of the workman also it appears that earlier he had been working as Handling Worker on contract basis and became a daily wager of management from 29-3-1993 to 31-12-1994. He alleges to have been regularized by management from 1-1-1995. Thus it is clear from the evidence of the parties that the workman was in the employment of the management as regular employee since 1-1-1995. Learned counsel for the management argued that the workman was a casual worker and a contract labour but I do not find any basis of this argument.

The workman has alleged in his affidavit that he was terminated without any order on 9-8-1996 by blocking his gate entry into the premises. The management denies his termination and alleges that he has been absconding since 1-8-1996. The AR of the workman argued that even abandonment is a termination. I am not in agreement with this argument also. Abandonment or absconding from duty is an act on the part of the employee while termination is an act on the part of an employer. However in Schedule I of the Industrial Employment (Standing Orders) Act, 1946 "MODEL STANDING ORDERS IN RESPECT OF INDUSTRIAL ESTABLISHMENT NOT BEING INDUSTRIAL 'ESTABLISHMENT IN COAL MINES' have been given. Para 14 of these Standing Orders provide disciplinary action for misconduct. As per sub-para 3 Clause (e) habitual absence without leave or absence without leave for more than 10 days is a misconduct. Thus the absconding of workman from duty without leave or permission as alleged by the management was a misconduct as per Model Standing Orders. A misconduct invites disciplinary action against the employee and his services can be terminated after inquiry. But according to the management the services of the workman were not terminated. It means that the workman is still continuing in the service. With respect to abandonment the law is well settled that an inference can be arrived by taking of totality of circumstances. According to the management the workman had been absconding since 1-8-1996. It is important to note that the workman's demand notice dated 24-8-1996 shows that he served the demand notice within a month of his alleged absence. Under the circumstances even the absence of the workman should not have been treated as an act of abandonment. Abandonment can be inferred only when there is evidence that the workman has no intention to return to work.

Anyway, since the management itself is denying the termination of the service of the workman, hence the occasion of adjudging the justification of the referred termination does not arise. The workman is entitled to be treated to be continuing in service and if he reports for duty within one month from the publication of the award the management will take him on duty as before and since the workman is to be treated in continuing service, he is entitled to the back wages.

Though there is no evidence that the workman was gainfully employed after his alleged termination but at the same time it is also not possible that during this period he remained without any livelihood. I therefore find him entitled to 40 per cent back wages. The reference is answered in favour of the workman. Let two copies of the award be sent to the Central Government with a copy to the District Judge, Kapurthala.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 563.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (आईडी संख्या 31/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-22012/25/2008-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 563.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Bankola Area of M/s. ECL and their workmen, received by the Central Government on 12-2-2013.

[No. L-22012/25/2008-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: SRI JAYANTA KUMAR SEN, Presiding Officer

Reference No. 31 of 2008

Parties :

The management of Tilabony Colly. M/s ECL. Burdwan

Vs.

The Org. Secy., UCMU, Burdwan(WB)

Representatives:

For the Management: Sri P. K. Goswami,
Ld. Advocate

For the Union (Workman): Sri Sushil Banerjee,
Ld. Representative

INDUSTRY: COAL State : West Bengal

Dated-15-1-13

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947) Govt. of India through the Ministry of Labour vide its Order No. L-22012/25/2008-IR (CM-II) dated 19-6-2008 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of M/s. ECL in not regularizing the services of Shri Dipen Chattaraj Canteen Manager w.e.f 1-4-1999 is legal and justified? To what relief the workman concerned is entitled to?”

Having received the Order of Letter No. L-22012/25/2008) I.R.(CM-II) dated 19-06-2008 of the above said reference from the Govt. of India Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No 31 of 2008 was registered on 01-07-2008 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims, in pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, it has been found that Sri Sushil Banerjee, Ld. Representative of the Union, files a petition along with a copy of Death Certificate of the workman praying for withdrawal of the case as the workman has expired on 18-6-2010. Since the workman has expired and the Union wants to withdraw the case, the case is dismissed as withdrawn. Hence, the case is closed and accordingly an order of “No Dispute Award” is hereby passed.

ORDER

Let an “Award” be and the same is passed as “No Dispute” existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for Information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 564.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 मुम्बई के पंचात (आई डी संख्या 34/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-22015/06/2007-आई आर (सी-II)]
बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 564.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/2007) of the Central Government Industrial Tribunal No.-2, Mumbai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 12-2-2013.

[No. L-22015/06/2007-IR (C-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

Present : K.B. KATKE, Presiding Officer

Reference No. 2/34 of 2007

Employers in relation to the management of Food Corporation of India & Ors

(1) The General Manager
Food Corporation of India
Dheeraj Arna Building, 2nd floor
Anant Kanekar Marg
Near ONGC, Bandra (E)
Mumbai -400051

(2) Senior Regional Manager
Food Corporation of India, Regional Office
Mistry Bhavan, Dinshaw Wachha Road
Mumbai 400020

(3) Zonal Manager
Food Corporation of India
Mistry Bhavan, Dinshaw Wachha Road
Mumbai 400 020.

AND

Their workmen.

Secretary

Transport & Dock Workers Union

P. D'mello Bhawan

P. D'mello Road

Carnac Bunder

Mumbai - 400038

APPEARANCES :

For The Employees : Mr. B. J. Sawant, Advocate

For The Workman : Mr. Venkatesh Swami,
Representative.

Mumbai dated the 10th January, 2013

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-22015/6/2007-IR (CM-II), dated. 30-07-2007 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the demand of the Transport and Dock Workers' Union, Mumbai for absorption of all Contract Workers working at FCI Depot, Ratnagiri as permanent Departmental Workers and also to decide their wages in consultation with the Union is legal & justified? If so, to what relief these contract workers entitled to?"

(2) After receipt of the order of reference from Ministry, notices were served on the parties. In response to the notice, second party workman filed his statement of claim at Ex-3 along with documents. First party management filed their written statement at Ex-9. Issues were framed at Ex-13 and matter was fixed for evidence of the management. Today second party union filed application (Ex-23) stating that both parties have reached a settlement on 09-01-2013 and prayed to dispose of the reference as withdrawn. In the circumstances, I think it proper to dispose of the reference. Thus the order:

ORDER

In view of consent terms filed with Ex-23, reference stands dismissed as withdrawn with no order as to cost.

Date: 10th January, 2013

K. B. KATAKE, Presiding Officer Ex-No. 23

**BEFORE THE PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 2 AT MUMBAI**

Ref. No. : CGIT - 2/34/ 2007

Employers in relation to the Management of Food Corporation of India
..... First Party

And
Their Workmen
Through Transport ' Dock Workers' Union,
Mumbai, P. D' mello Bhavan, P. D' mello road,
Carnac Bunder, Mumbai - 38

... Second Party

MAY IT PLEASE YOUR HONOUR:

Both Parties have reached the Settlement on 9th January. 2013. Hence, wish to withdraw this matter. Annexed herewith a copy of Settlement dated 9th January, 2013 and marked Annexure 'A'. In view of the Terms of Settlement, this matter may kindly be disposed of as withdrawn.

Venkatesh Swami,
Secretary,

TRANSPORT & DOCK WORKERS' UNION,
MUMBAI.

Mumbai, Dated: 10-01-2013.

MEMORENDUM OF SETTLEMENT

Under Rule 58 of Industrial Disputes (Central) Rules 1977 read with Section 18(1) of I.D Act. 1947 arrived at Mumbai on 9th January 13 for implementation of No Work No Pay System at Ratnagiri depot.

Name of the parties

Representing employer	Representing Workmen
(1) Shri D. R. Paramesh, Genl. Manager(M)	(1) Shri Kishor Kotwal, Vice. President
(2) Shri J.S. Syju, Dy. Genl. Manager (M)	(2) Shri Nivruti Dhumal, Secretary
(3) Smt D. Sri devi, A.G.M. (IR-L)	(3) Shri Venkatesh Swami, Joint Secretary
(4) Shri Saurabh Nitin, A.G.M. (Finance),	(4) Shri C. B. Patil, Dy. Secretary,
(5) Shri Biju B., A.G.M (Finance)	(5) Shri Balu Khade Organizer
(6) Shri Syed Qyamuddin, Manager (IR-L), Food Corporation of India Regional Office (Maha.), Mumbai.	Transport & Docks workers Union Mumbai.

SHORT RECITAL OF THE CASE

The handling and ancillary workers working in the depot of Food Corporation of India (FCI) here in after referred to as "The Corporation" at Ratnagiri through Kolhapur Sahakari Majur & Hamali Sanstha Ltd. Kolhapur, since 1998 and affiliated with the Transport & Docks Workers Union, Mumbai here in after referred to as "The union". The union has filed a writ petition No. 554/2005 in the Hon'ble Bombay High Court which was disposed off by directing the Corporation not to terminate the services of workers and referred the case to the Hon'ble Central Government Industrial Tribunal (CGIT) for further adjudication. The said case seized by the CGIT under

reference No. 2/34 of 2007 is still pending at the said Tribunal. The union further approached the CACLB under Section 10 of I.D Act. to abolish the contract system in the said depot. After investigation, the said Board has abolished contract labour system in said depot from 03-07-2007. However the contract continued in operation till date, due to status que order of Hon'ble High Court of Bombay.

The Ministry of Consumer Affairs, Food & Public Distribution, Govt. of India, vide letter No. 1911/26/2009-FC-3 dtd. 05-07-2011 has declared to introduce No Work No Pay System (NWNP) to labours working at Ratnagiri depot like other depots of Kerala Region. This was offered to the said Union vide letter dtd. 11-08-2011 but the Union has declined the offer vide letter No. FCI. 11/716/2011 dtd. 30-08-2011.

The Corporation on its part further pursued the issue with the said union and the union vide letter dtd. 07-09-2012 has agreed to discuss the issue' and accordingly during last meeting held on 18-10-2012 has mutually agreed to settle the matter as under.

TERMS OF SETTLEMENT

1. It is agreed by both the parties that the workers will be inducted in NWNP system as per guidelines of Government/ FCI Head Quarters, New Delhi based on the capacity of the Depot and three years turn over which comes to 124 handling and 8 ancillary labours including Tindel and Mukadam for all the operations from the list of workers working in the said depot, for last 12 months. The Corporation will not take any responsibility of any excess workers other than the above.

2. It is agreed by both the parties that as per Head Quarters guidelines revision will be based on the % increase in All India Consumer Price Index (AICPI) for every two years. Accordingly, the revision for the year April 2009 (after the expiry of contract) & April 2011 will be notionally calculated @ASOR % 388% and 505% respectively. For basic operation, as per the latest revised ASOR will be Rs. 3.63/per bag which shall be effective up to the next revision due in April 2013. The details of the calculation were shown to the union during the meeting held on 18-10-2012.

3. All other benefits will be extended as applicable to this scheme as per Head Quarters guidelines regarding service conditions vide letter No. IR(L)/ 3(7)/ 99-vol. VII dtd. 10-08-2012 (copy enclosed) or modified from time to time.

4. All payments including wages to NWNP system workers would be made directly by FCI through ECS/ Account payee cheque.

5. The Corporation had further stated that all these would be applicable only after the union withdraws all the pending Court cases/ litigation in various Court/ Labour/ Industrial Courts.

6. The union representatives present in the meeting agreed that they would submit their documents as proof of having withdrawn the Court case/ Industrial Tribunal at the earliest to enable the Corporation to implement the NWN system in the depot of Ratnagiri.

This agreement shall be effective from the date of submission of withdrawal of all Court cases from all legal forums by the Union.

This settlement is arrived at Mumbai on 9th January 2013

Representing Employer	Representing the Workman
(1) Shri D. R. Paramesh Dy. Genl. Manager(M)	(1) Shri Kishor Kotwal Vice President.
(2) Shri S. J. Syju, Dy. Genl. Manager(M)	(2) Shri Nivruti Dhumal, Secretary
(3) Smt. D. Srideri, A. G. M. (IR-L)	(3) Venkatesh Swami Joint Secretary
(4) Shri Saurabh Nitin, A.G.M. (Finance)	(4) Shri C. B. Patil, Dy. Secretary
(5) Shri Biju B., A.G.M. (Finance)	(5) Shri .Balu Khade. Organizer
(6) Shri Syed Qyamuddin, Manager(IR-L)	

नई दिल्ली, 12 फरवरी, 2013

का.आ. 565.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1 मुम्बई के पंचाट (आई डी संख्या 24/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-42012/257/2005-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 565.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2006) of the Central Government Industrial Tribunal No.1, Mumbai, as shown in the Annexure in the Industrial Dispute between the management of Nuclear Power Corporation of India, and their workman, received by the Central Government on 12-2-2013.

[No. L-42012/257/2005-IR (CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, MUMBAI

JUSTICE G.S. SARRAF Presiding Officer

REFERENCE NO. CGIT-1/24 OF 2006

Parties: Employers in relation to the management of Nuclear Power Corporation of India Ltd.

And

Their Workman (Benzamin Sudnyan Kale)

Appearances :

For the Management : Shri.Kantharia, Adv.

For the workman : Ms.Mulani, Adv.

State : Maharashtra

Mumbai, dated the 17th day of August, 2011.

AWARD PART - I

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference given in the schedule are as follows: Disputes Act 1947.

Whether the action of the management of Nuclear Power Corporation of India, Mumbai in dismissing the services of Shri Benzamin Sudnyan Kale w.e.f.28-3-2005 is legal and justified? If not, to what relief is the workman entitled?

Briefly stated the facts are that the second party workman was appointed as Helper 'A' vide order dt.5-9-2002. A complaint dt.3-2-2003 was received from a lady employee Ms.Manisha Rogannawar, Steno-II that while travelling to Mankhurd in Maruti Van on 30-1-2003 the second party workman misbehaved with her physically. The matter was then referred to the Sexual Harassment Complaint Committee' which was constituted in accordance with the guidelines laid down by honourable Supreme Court for redressal of the complaints made for sexual harassment of women employees at the work place. The committee came to the conclusion that the incident had occurred and the complaint made by Ms.Manisha Rogannawar was genuine. The committee recommended disciplinary action against the second party workman. The second party workman was placed under suspension vide order dt.7-2-2003 and a memorandum of charges dt.8-4-2003 was served on him by the disciplinary authority. Smt.J.V.Fernandes, Senior Manager (F&A) was appointed as the Enquiry Officer and Y.N.Kamble, Asstt.Manager (P&IR) was appointed as the Presenting Officer. The Enquiry Officer submitted her report dt.2-12-2004 according to which charges were proved against the second party workman. A

copy of the enquiry report was forwarded to the second party workman for representation/submission, if any, he wished to make against the report. The workman submitted a representation dt. 5-1-2005. Vide order dt. 28-3-2005 of the disciplinary authority penalty of dismissal from service was imposed on the second party workman. The second party workman preferred an appeal against the order of dismissal but the appellate authority by order dt. 23-8-2005 rejected the appeal and confirmed the penalty of Dismissal from service passed by the disciplinary authority.

3. According to the statement of claim submitted by the second party workman when the Marutivan was approaching the destination the second party workman got ready to get down but unexpectedly the driver of the Maruti Van applied sudden brake at the speed braker and thereby the second party workman lost his balance and his right hand fell on the front seat where Ms. Manisha Rogannawar was seated and his left hand fell on her shoulder. What suddenly happened was purely involuntary and had happened due to sudden application of brake by the driver. The momentary physical contact attributable to the sudden application of brake resulted in losing his balance and, therefore, it was neither intentional nor purposeful. The second party workman expressed his honest and genuine regrets to the lady and begged to be excused and forgiven but the lady slapped him on his face. According to the statement of claim the Enquiry Officer recorded the statement of Ms. Manisha Rogannawar in private and the second party workman was not given a chance to ask any question in cross-examination which is a clear violation of principles of natural justice. The second party workman, therefore, prayed that he be reinstated with full back wages and continuity of service.

4. According to the written statement the findings of the enquiry officer are based on cogent reasons and correct evaluation of evidence. The enquiry officer personally recorded the statement of Ms. Manisha Rogannawar in her chamber keeping in view the sensitivity involved and the very fact that a female while narrating such a bad experience would feel humiliated, and on the request of the complainant, the Enquiry Officer took a conscious decision not to allow the second party workman to cross-examine the complainant. According to the written statement the second party workman is not entitled to any relief.

5. The second party workman has filed an affidavit on 16-4-2007 and a fresh affidavit on 14-2-2011 and he has been cross-examined by learned counsel for the first party. The second party has filed an affidavit of the Enquiry Officer Smt. J.V. Fernandes, Dy. G.M.(F&A) and she has been cross-examined by learned counsel for the second party workman.

6. Heard Learned counsels for the parties on the following preliminary issues.

(1) Whether the enquiry is fair and proper?

(2) Whether the findings of the Enquiry Officer are preverse?

7. The above two issues may be decided together.

8. Learned counsel for the workman has argued that the workman was not allowed to be present when the statement of the complainant was recorded by the Enquiry Officer and the Enquiry Officer did not give to the second party workman an opportunity to cross-examine the complainant and, therefore, the principles of natural justice have been clearly violated and as such the enquiry report deserves to be quashed.

9. Learned counsel for the first party has vehemently contended that in cases of sexual harassment denial of opportunity of cross-examination to the delinquent cannot be considered violation of principles of natural justice because such cases need to be considered with the highest possible sensitivity keeping in mind the modesty and dignity of the female employee. He has placed reliance on AIR 1997 SC 3011, (1997) 2 SCC 534, AIR 1984 SC 273, AIR 1974 SC 1360 and AIR MP 278.

10. It has been admitted in the written statement filed by the Management that the Enquiry Officer did not allow the second party workman to cross-examine the complainant. The Enquiry Officer J.C. Fernandes has also stated in her cross examination, "In the enquiry held by me I recorded the statement of complainant Ms. Manisha Rogannawar but on her request I did not allow the workman and the Presenting Officer to be present when the statement of the complainant was recorded. On the day on which the statement of the complainant was recorded the workman was not given an opportunity to cross-examine her. It is thus clear that the workman was not allowed to be present when the statement of the complainant was recorded and he was not given any opportunity to cross-examine her.

11. In this matter the workman has consistently from the beginning disputed the version of the complainant. Secondly, the story narrated by the complainant Manisha Rogannawar does not find place in the complaint dt. 3-2-2003 Ex. M-3. In the statement before the Enquiry Officer the complainant has stated that she felt some movement on her left breast and when she turned left to see what was happening then she saw the hand of the delinquent on her breast whereas in the complaint Ex. M-3 she has only stated that the workman misbehaved with her physically. Thirdly, the statement of the driver has been recorded by the Enquiry Officer but he does not say anything about the main story apparently because he was driving.

12. This is correct that in cases of sexual harassment denial of opportunity of cross-examination to the delinquent by itself may not amount to violation of principles of natural justice provided no prejudice has been

caused to the delinquent by the procedure followed. However, in the facts and circumstances of this matter I am clearly of the view that the denial of opportunity to cross-examine the complainant has certainly caused prejudice to the workman.

13. For the reasons stated above the enquiry conducted against the workman cannot be said to be fair and proper and I also find the findings of the Enquiry Officer to be perverse.

14. Both the issues are, therefore, decided against the Management.

15. The first party is given an opportunity to prove the charge against the workman Benzamin Sudnyan Kale by leading evidence before this Tribunal which the case befitted on 16th September 2011.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 566.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान इनसेक्टोसाइड लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, नं. 2, मुम्बई के पंचाट (आई डी संख्या 16/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-42012/131/2001-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 566.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2002) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Insecticides Ltd. and their workman, received by the Central Government on 12-2-2013.

[No. L-42012/131/2001-IR (CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT K.B. KATAKE, Presiding Officer

REFERENCE NO. CGIT- 2/16 of 2002

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF HINDUSTAN INSECTICIDE LTD.

The General Manager
Hindustan Insecticides Limited
P.O. Rasayani
Distt. Raigad
MS. 410 207.

AND

THEIR WORKMEN

Mr. Vijay Atmaram Thakur
KL 4/4/3, Sector 6E
Kalamboli
Navi Mumbai- 410 218.

APPEARANCES :

FOR THE EMPLOYER Mr. A. M. Jalisatgi, Advocate.

FOR THE WORKMEN Mr. M. B. Anchan, Advocate.

Mumbai, dated the 1st January, 2013.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-42012/131/2001-IR (CM-II), dated 29-01-2002 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of Hindustan Insecticides Ltd., Rasayani in dismissing Mr. Vijay Atmaram Thakur from services w. e.f. 14-06-1996 is legal and justified? If not, to what relief he is entitled to?”

2. After receipt of the reference, parties were served with notices. In response to the notice the second party workman filed his statement of claim at Ex-9. According to him, he was recruited by the first party as a Store Keeper. He was active office bearer of the Hindustan Insecticides Ltd. Rasayani Employees Union. He was also Vice President of the said union in the year 1984. The management did not like it and they had a grudge against him. He was refused loan for purchase of scooter though he was entitled for the same. Therefore workman approached Civil Court and the matter was amicably settled. In 1990 there was theft of two bearings worth Rs. 2.5 lakhs. The management started preliminary inquiry. The workman gave a written statement stating that the Head of the Department was responsible for the same. Thereafter management stopped the inquiry. Even police complaint was not lodged. Those bearings were not traced out. Due to the said incident management was again annoyed.

3. In the year 1989 designation of the workman was changed from Store Keeper to Store Supervisor. From August 1990 he was not allotted any work. Even other workers were stopped from talking to him. In 1993 they ordered the workman to vacate his quarter. On his complaint

to Industrial Court, Thane, Court restrained the management from evicting him. He was required to call the police to restore the water supply to his quarters. They also started illegally recovering subsidy granted to him on his house loan. The management was insisting the workman to apologise for his deeds and made it clear that otherwise he would be transferred to Delhi to teach him a lesson. They finally transferred him to Delhi by their order dated 17/06/1993 without any promotion. The workman was not given transfer T.A. advance to transport his house hold goods. He was not given accommodation at Delhi. The transfer was malafied act of the management. The workman was relieved from Rasayani unit. However transfer was malafied, workman filed a complaint before Industrial Court Mumbai who stayed his transfer and granted him 50% of his wages. The said order was challenged before High Court. Hon'ble High Court allowed 100% wages and remanded the matter to decide the jurisdiction of Industrial Court. The Industrial Court held that Central Government is the appropriate Government and dismissed the complaint. The writ of the workman was also dismissed. The workman then approached to ALC ©. He was transferred to Delhi merely for harassment.

4. Though workman had never resumed at Delhi inquiry against him was initiated at Delhi. Workman requested to initiate inquiry at Rasayani where he was working. However his request was turned down. Due to financial restrain he could not attend the inquiry proceeding at Delhi. He could not cross examine the witnesses at Delhi. He also could not examine his witnesses from Rasayani. The inquiry was exparte and in violation of principles of natural justice. The charge sheet was issued by General Manager who was not competent authority as Chairman was the competent authority. Therefore charge is illegal. Therefore inquiry is vitiated. The inquiry was not fair and proper. The findings of the inquiry officer are perverse. The workman was not given opportunity. No show cause notice was given to him before dismissing him from the services. Thus the order of dismissal is illegal. The workman is unemployed since the date of his dismissal. Therefore workman prays that the inquiry be declared unfair and improper and findings of the inquiry officer be declared perverse and the management be directed to reinstate him in service with full back wages and continuity of service.

5. The first party management resisted the statement of claim vide its written statement at Ex-11. According to them, the second party was dismissed from service when he was employee of Regional Sales Office, Delhi. He was not employee at Rasayani Plant, Maharashtra. Therefore the ALC Mumbai as well as this Industrial Tribunal has no jurisdiction to entertain this reference. Secondly they contended that the second party employee was not a workman. He was serving as a Supervisor in Stores and was drawing salary exceeding Rs. 4000 p.m. The service rules applicable to him were managerial and

supervisory cadre of first party company. The second party was not workman as defined under Section 2 (s) of I. D. Act 1947. Therefore reference is not maintainable.

6. The second party employee was terminated after holding fair and proper inquiry. There is no substance in the dispute raised by the second party. The reference is hit by principle of delay and laches as it was raised after six years from the date of allege cause of action i.e. from the date of order of dismissal dated 14-06-1996.

7. The second party employee was serving as a Supervisor in Rasayani Factory. Vide its order dtd. 17-06-1993, Company transferred him to Regional Sales Office at Delhi. He was also relieved from duty w.e.f. 28-06-1993. He was supposed to report at Delhi on 16-07-1993. However the second party did not report for his duties and remained unauthorisedly absent. He filed a case challenging the order of his transfer before Industrial Tribunal, Thane. Thane Court granted interim stay. However finally Court dismissed the complaint and vacated the interim stay. In spite of that second party did not report his duty. Therefore the second party was charge sheeted for absence without leave or without sufficient cause and for breach of service rules for managerial and supervisory employees. Mr. S.C. Baluja was appointed as inquiry officer and the inquiry officer held detailed inquiry in accordance with service rules and in compliance with the principles of natural justice. The second party was given ample opportunities to remain present and defend himself in the inquiry. The second party deliberately remained absent and deliberately did not participate in the inquiry proceeding. The management examined witnesses in support of the charges levelled against second party. On conclusion of the inquiry, I O submitted his report and findings to the management. The copy of the inquiry proceedings as well as report and findings were given to the second party for his comments. The second party submitted his comments vide letter dtd. 10-05-1996. The competent authority after going through the contentions raised by second party and considering the gravity of misconduct proved in the inquiry also looked into the past record and passed an order dismissing second party from service w.e.f. 14-06-1996. The said order of dismissal is legal, just and proper.

8. The inquiry was fair and proper. Principles of natural justice were followed. They denied all the allegations made by the workman. They pointed out number of incidents of other misconducts of the employee. According to them scooter loan was sanctioned to the employee in 1985. He obtained the loan however did not purchase the vehicle for two years. Therefore the first party was constrained to recover the loan from the second party. Against the said action, second party approached Civil Court, Khalapur. However court dismissed the same on the point of jurisdiction. According to them the second party

has suppressed the true facts. The theft case was lodged by the company. All the concerned Stores Supervisors were directed to give list of inventories of the material. Others gave necessary list. However second party refused to give the details and did not co-operate in finding out missing items. Some steel pipes and bearings were stolen from the stores. Company immediately lodge complaint to Police. Police authorities recovered the pipe and bearings near the factory premises. The incident had taken place during the tenure of second party as Store Supervisor. Lapses on the part of second party in discharging his duties were also noticed by the inquiry committee. The allegations of second party are false, baseless and concocted. They denied that he was transferred in order to harass him. According to them, second party had abused Personnel Manager in filthy language when he was taking round and entered in the cabin of V. A. Thakur. They pointed out number of irregularities and misbehaviour of the second party. According to them, the inquiry officer has given sufficient opportunity to the second party. However the second party has not given names of his witnesses. The averments in the statement of claim are totally false and frivolous. Therefore first party prays that the reference be rejected with cost.

9. The second party filed his rejoinder at Ex-15. He denied all the allegations made by the first party in their written statement and reiterated that inquiry was not fair and proper and he was victimised.

10. My Ld. Predecessor has framed the following three issues as preliminary issues. I record my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1.	Whether second party is a 'workman' as defined under Section 2 (s) of I.D. Act 1947?	No.
2.	Whether the inquiry is fair and proper?	Yes.
3.	Whether the findings of the Inquiry Officer are perverse?	No.

REASONS

Issue no. 1 :—

11. It is the case of the second party that though his designation was changed, as Supervisor, he was doing the same work as a Store Keeper. As against this it was argued on behalf of the first party that the second party was promoted as Supervisor and he was performing supervisory and managerial duties. The burden was on the second party to show that he was not working as a Supervisor but continued to work as Storekeeper even after promotion. The second party has not led any evidence to that effect. Therefore it is submitted that there is no harm in believing

that the second party was doing the supervisor and managerial duties as he has not denied that he was designated as a Supervisor.

12. The Id. adv. further submitted that this point was raised before Industrial Tribunal, Thane in Complaint (ULP) No. 417/1993 wherein Industrial Court Thane had dealt with the issue as to whether the second party was workman as defined under Section 2 (s) of the Industrial Disputes Act, 1947. The judgement of Industrial Court is produced on record at Ex-33 wherein issue No. 3 was framed. Though it was framed as whether complainant is an employee within the Section 3 (5) of MRTU and PULP Act, 1971, the discussion in this issue is whether the complainant is workman as defined under Section 2 (s) of I.D. Act. After elaborate discussion of more than 20 pages, it was held that the complainant was not 'workman' as defined under Section 2 (s) of the I D Act but he was a Supervisor and not employee as defined under Section 3 (5) of MRTU & PULP Act. Though in that judgement it was held that the appropriate Government was Central Government, however in issue No. 4 in this judgement, it was held that the said Court had territorial jurisdiction to entertain the complaint. The said judgement was not challenged and the findings therein are still in force. Therefore it cannot be said that the said judgement of Industrial Court, Thane was without jurisdiction. In that judgement it was held that the second party was not workman.

13. From the record and designation and duties of the second party mentioned herein it is revealed that he is not a workman within the meaning of Section 2 (s) of I.D. Act. On the other hand he was performing his duties in a supervisory and managerial nature. Accordingly I decide this issue no.1 in the negative.

Issue no. 2:—

14. As the second party is held not workman as defined under Section 2 (s) of the I.D. Act, the reference is not tenable. However as issue is framed and evidence is led it is necessary to discuss the same and give findings on these issues. In respect of fairness of inquiry the second party contended that he was not given opportunity either to cross examine the witnesses of the first party or led his evidence. According to him the first party transferred him from Rasayani to their sales office at Delhi with malafied intention and in order to harass him. Therefore he did not join his duty at Delhi. According to second party the first party had deliberately kept the inquiry at their office at Delhi instead of at Rasayani. Therefore he could not attend the inquiry proceeding at Delhi. In this respect the Id. adv. for the first party submitted that the transfer of the second party to Delhi was not malafied act. The same point was raised by the second party in the complaint (ULP) No. 417/1993 before Industrial Court, Thane. The issue to that effect was framed by the said Court and the said issue no. 5 was decided by the said court in the negative. The court held

that, the transfer was not malafied or in order to harass the second party. In the circumstances, Id. adv. submitted that the said judgement Ex-33 has reached to its finality. Therefore, the finding recorded by the Industrial Court, Thane is binding on the parties. Therefore he submitted that the second party now cannot be allowed to say that he was transferred to Delhi with a malafied intention and in order to harass him. The Id. adv. submitted that the version of the second party cannot be taken into account that as his transfer was with malafied intention therefore he did not join his duty at Delhi.

15. In this respect Id. adv. for the first party further submitted that the second party has not disputed that he never reported at Delhi after his transfer from Rasayani by order dt. 17-06-1993. He has also not disputed that he was served with the charge sheet. He has admitted in his cross at Ex-17 that he was served with charge sheet dtd. 16-11-1993. He has also admitted that he was asked to attend the inquiry from time to time on the said charge sheet. He further admitted in his cross that he did not attend the inquiry. He further says in his cross that he do not remember whether he was served with the inquiry report and findings. The second party has also admitted in his cross at Ex-17 that he was relieved from Rasayani to join Delhi. In the circumstances the Id. adv. for the first party rightly argued that the second party was served with charge sheet and was directed to appear before the inquiry officer. He did not attend the inquiry proceedings by saying that his transfer was effected with malafied intention to harass him. The point of malafied intention was decided by Thane Industrial Court in the negative. In the circumstances the second party had no reason to remain absent before the inquiry officer at Delhi. The reason given by him is unacceptable. In short the management and Inquiry officer have complied with the procedure of inquiry by serving the second party with charge sheet and informing him the dates of hearing. The workman remained wilfully absent. As workman remained wilfully and deliberately absent, therefore, it cannot be said that he was not given an opportunity to defend himself. Thus question of violation of principles of natural justice does not arise. In the circumstances, it cannot be said that there is violation of principles of natural justice.

16. In this respect Id. adv. for the first party further pointed out that Industrial Court Thane in its judgement at Ex-33 held that the transfer of the second party to Delhi from Rasayani was not with malafied intention or in order to harass him. In this backdrop the workman cannot raise the dispute or justify his absence before the inquiry officer. Inspite of intimation of date of inquiry he wilfully remained absent. Therefore inquiry officer proceeded ex parte. He recorded the evidence of the witnesses and held the second party guilty for remaining absent from duty without permission and without any reason since June 1993. In this

back drop I come to the conclusion that, neither there are any procedural lapses nor inquiry officer has violated the principles of natural justice. Thus I decide this issue no. 2 in the affirmative that the inquiry was fair and proper.

Issue no. 3:—

17. In respect of findings of inquiry officer I would like to point out that, the inquiry is found to be fair and proper. The second party admittedly did not join his duties at Delhi. Therefore inquiry officer rightly held him guilty of misconduct for remaining unauthorisedly absent from duty. Therefore the findings of inquiry officer are as per the evidence on record. Thus the same cannot be called perverse. In the circumstances, it needs no further discussion decide this issue no. 3 in to the negative.

18. The second party is held not workman. The same finding was also recorded earlier by Industrial Court, Thane in Complaint (ULP) No. 417/1993. The said Court had also recorded the findings that the transfer of the second party to Delhi from Rasayani was not malafied act of the management. The copy of judgement of Thane Industrial Court is on record at Ex-33. The said judgement was pronounced on 29-07-1995. That appears the reason for delay of six years in raising this dispute. The first party has raised the plea of delay and laches. However, unfortunately no issue to that effect was framed. As the second party is held not workman, the reference is not tenable and the same deserves to be dismissed at the stage of deciding the preliminary issues. There is no point in proceeding to decide the other issues as vital preliminary issue is decided against the second party. Thus I dismiss the reference and proceed to pass the following order :

ORDER

The reference is dismissed with no order as to cost.

Date: 01-01-2013

K. B. KATAKE, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 567.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर.सी.एण्ड एफ.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, मुम्बई के पंचाट (आई डी संख्या 41/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-42012/05/2005-आई आर (सी-11)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 567—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 41/2006) of the Central Government Industrial Tribunal No. 1, Mumbai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of R. C. & F. L. and their workman, which was received by the Central Government on 12-2-2013.

[No. L-42012/05/2005-IR (C-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

Present : JUSTICE G. S. SARRAF, Presiding Officer

REFERENCE NO. CGIT 1/41 OF 2006.

Parties : Employers in relation to the management of Rashtriya Chemicals and Fertilizers

And

Their workmen

Appearances :

For the Management	Mr. Alva, Adv.
For the Union	Mr. R. D. Bhatt, Adv.
For the 69 workmen	Mr. J. P. Sawant, Adv.
State	Maharashtra

Mumbai, dated the 8th day of January, 2013

AWARD

1. In exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 the Central Government has referred the following dispute for adjudication to this Tribunal.

(1) Whether the contract between the contractor and Rashtriya Chemicals and Fertilizers Limited, Mumbai is sham and bogus and is a camouflage to deprive the workmen whose names are enlisted at Exhibit "A" from the benefits available to permanent workers of the Rashtriya Chemical and Fertilizers Limited?

(2) Whether the workmen whose names are enlisted at Exhibit A should be declared as permanent workers and wages and consequential benefits to be paid to concerned workers?

2. An application was filed on 21-11-2012 by 69 workmen named therein with a prayer that their names be deleted from the reference as they were not interested in pursuing the claim against the first party.

3. Another application has been filed today by the President, Mumbai Shramik Sangh stating therein that the second party is not interested in pursuing its claim and

contentions against the first party and that it does not press its statement of claim and therefore, an appropriate award be passed in this matter.

4. It is thus clear from the above two applications that the second party is not interested in pursuing and prosecuting this reference.

5. The reference is, therefore, disposed of as not prosecuted by the second party.

Award is passed accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 568 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय, आसनसोल के पंचाट (आई डी संख्या 12/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-22012/88/2008-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 568.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Eastern Coalfields Limited, and their workmen, received by the Central Government on 12-2-2013.

[No. L-22012/88/2008-IR (CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : SRI JAYANTA KUMAR SEN, Presiding Officer

Reference No. 12 of 2009

Parties : The management of Nimcha(R) Colly, M/s. ECL, Burdwan (WB)

Vs.

The Gen. Secy., KMC, Asansol (WB)

Representatives:

For the management:	Sri P.K. Goswami, Ld. Advocate
For the union (Workman):	Sri Rakesh Kumar, Ld. Representative

Industry: Coal	State: West Bengal
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Dated - 01-01-13

AWARD

In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its Order No. L-22012/88/2008-IR(CM-II) dated 03-03-2009 has been pleased to refer the following dispute for adjudication by this Tribunal:

SCHEDULE

“Whether the action of the management of Nimcha(R) Colliery by not providing employment to the son of Late Vikrama Choudhury consequent upon his attaining the age of 18 years is legal and justified? To what relief is she entitled?”

Having received the Order of Letter No. L-22012/88/2008-IR(CM-II) dated 03-03-2009 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 12 of 2009 was registered on 27-03-2009 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, it has been found that Sri Rakesh Kumar, Ld. Representative of the Union, submits that the dependant of the workman has already joined in service. Since the dependant of the workman has already joined in service, the case is closed and accordingly an order of “No Dispute Award” is hereby passed.

ORDER

Let an “Award” be and the same is passed as “No Dispute” existing. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 569.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबंध निर्यातकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (आई डी संख्या 63/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-22012/342/2005-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 569.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 63/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Bahula Colliery under Kenda Area of M/s. ECL and their workmen, received by the Central Government on 12-2-2013.

[No. L-22012/342/2005-IR(CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

Present : Sri Jayanta Kumar Sen, Presiding Officer

Reference No. 63 of 2006

Parties: The management of Bahula Colly, M/s. ECL,
Burdwan

Vs.

The Gen. Secy., KMC, Asansol (WB)

Representatives:

For the management: Sri P. K. Das, Ld. Advocate

For the union (Workman): Sri S. K. Pandey, Ld.
Representative

Industry: Coal State: West Bengal

Dated - 03-01-13

AWARD

In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its Order No. L-22012/342/2005-IR(CM-II) dated 05-09-2006 has been pleased to refer the following dispute for adjudication by this Tribunal:

SCHEDULE

“Whether the action of the management of Bahula Colliery under Kenda Area of M/s. Eastern Coalfields Limited in dismissing Shri Kartick Dhangar, U.G. Loader, U.M. No. 532161 w.e.f. 2-9-2004 is legal and justified? If not, to what relief is the workman entitled?”

Having received the Order of Letter No. L-22012/342/2005-IR(CM-II) dated 05-09-2006 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 63 of 2006 was registered on 25-09-2006 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant

documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, it has been found that Sri S. K. Pandey, Ld. Representative of the Union, submits that the workman has already joined in service and prayed for the closure of the case. Since the workman has already joined in service, the case is closed and accordingly an order of "No Dispute Award" is hereby passed.

ORDER

Let an "Award" be and the same is passed as "No Dispute" existing. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 570.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (आई डी संख्या 29/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-22012/381/1999-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 570.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to management of ECL and their workman, which was received by the Central Government on 12-2-2013.

[No. L-22012/381/1999-IR(CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present: Sri Jayanta Kumar Sen, Presiding Officer

Reference No. 29 of 2000

Parties: The management of J. K. Nagar Colly, M/s.
ECL Burdwan (WB)

Vs.

The Treasurer, CMU(INTUC), Asansol (WB)

Representatives:

For the management: None

For the union (Workman): None

Industry: Coal State: West Bengal

Dated - 02-01-13

AWARD

In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its Order No. L-22012/381/99-IR(CM-II) dated 10-02-2000 has been pleased to refer the following dispute for adjudication by this Tribunal:

SCHEDULE

"Whether the action of the management of J.K. Nagar Colliery, Satgram Area of ECL in terminating the services of Sh. Kahar on 23-05-95 without employing the Court's Order is justified? If not, to what relief the workman concerned is entitled?"

Having received the Order of Letter No. L-22012/381/99-IR(CM-II) dated 10-02-2000 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 29 of 2000 was registered on 13-03-2000 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, it has been found that the Union/workman is not taking any step since 2002. It seems that the workman is now no more interested to proceed with the case any further. As such, the case is closed and accordingly an order of "No Dispute Award" is hereby passed.

ORDER

Let an "Award" be and the same is passed as "No Dispute" existing. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 571.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (आई डी संख्या 10/1998) को

प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-22012/380/1997-आई आर (सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 571.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/1998) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL their workman, which was received by the Central Government on 12-2-2013.

[No. L-22012/380/1997-IR (C-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : SRI JAYANTA KUMAR SEN, Presiding Officer

Reference No. 10 of 1998

Parties: The management of North Siarsol Colly, M/s.
ECL, Burdwan

Vs.

The Org. Secy., CMS, Asansol (WB)

Representatives:

For the management: Sri P. K. Das, Ld. Advocate

For the union (Workman): None

Industry: Coal State: West Bengal

Dated - 10-01-13

AWARD

In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its Order No. L-22012/380/97-IR(CM-II) dated 20-05-1998 has been pleased to refer the following dispute for adjudication by this Tribunal:

SCHEDULE

“Whether the action of the management in dismissing Sh. Anju Thakur, Conveyor Operator, North Siarsol Colliery of Kunustoria Area of M/s. ECL is legal and justified? If not, to what relief is the workman entitled?”

Having received the Order of Letter No. L-22012/380/97-IR(CM-II) dated 20-05-1998 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 10 of 1998 was registered on 22-06-1998 and

accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, it has been found that the workman is neither appearing nor taking any step since 6-09-2005. It seems that the workman has now no more interest to proceed with the case any further. Hence the case is closed and accordingly an order of “No Dispute Award” is hereby passed.

ORDER

Let an “Award” be and the same is passed as “No Dispute” existing. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 572.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (आई डी संख्या 74/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-22012/504/1999-आई आर (सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 572.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 74/2000) of the Central Government Industrial Tribunal-cum-Labour Court Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to management of ECL their workman, which was received by the Central Government on 12-2-2013.

[No. L-22012/504/1999-IR (C-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : SRI JAYANTA KUMAR SEN, Presiding Officer

Reference No. 74 of 2000

Parties: The management of Shankarpur O.C.P. M/s.
ECL, Burdwan (WB)

Vs.

The Gen. Secy, UCMU, Ukhra (WB)

Representatives:

For the management: Sri P.K. Das, Ld. Advocate

For the union (Workman): None

Industry: Coal State: West Bengal

Dated - 3-01-13

AWARD

In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its Order No. L-22012/504/99-IR(CM-II) dated 6-09-2000 has been pleased to refer the following dispute for adjudication by this Tribunal:

SCHEDULE

"Whether the action of the management of Shankarpur O.C.P. of M/s. E.C.Ltd. in not paying O.T. for the period from 1997-1998 to 132 workmen is legal and justified? In not, to what relief the workman are entitled?"

Having received the Order of Letter No. L-22012/504/99-IR(CM-II) dated 6-09-2000 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 74 of 2000 was registered on 19-10-2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, it has been found that the Union/workman is not taking any step since 2007. It seems that the workman is now no more interested to proceed with the case any further. As such, the case is closed and accordingly an order of "No Dispute Award" is hereby passed.

ORDER

Let an "Award" be and the same is passed as "No Dispute" existing. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 573.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम

न्यायालय, आसनसोल के पंचाट (आई डी संख्या 31/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-22012/319/1999-आई आर (सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 573. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to management of ECL and their workman, which was received by the Central Government on 12-2-2013.

[No. L-22012/319/1999-IR(C-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

Present : Sri Jayanta Kumar Sen, Presiding Officer

Reference No. 31 of 2000

Parties: The management of North Searsole Colly,
M/s. ECL, Burdwan

Vs.

The Gen. Secy, NCWC, Dhanbad (Jharkhand)

Representatives:

For the management: Sri P.K. Das, Ld. Advocate

For the union (Workman): None

Industry: Coal State: West Bengal

Dated -9-01-13

AWARD

In exercise of the powers conferred by clause (d) of Sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its Order No. L-22012/319/99-IR(CM-II) dated 23-02-2000 has been pleased to refer the following dispute for adjudication by this Tribunal:

SCHEDULE

"Whether the action of the management of North Searsole Colliery in recording the date of birth and issuing the superannuation notice to terminate the service of Sh. Ram Chandra Kurmi, Pump Operator is justified? If not, to what relief Sh. Kurmi is entitled?"

Having received the Order of Letter No. L-22012/319/99-IR(CM-II) dated 23-02-2000 of the above said

reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 31 of 2000 was registered on 13-03-2000 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, it has been found that the workman is neither appearing nor taking any step since 2007. It seems that the workman has now no more interest to proceed with the case any further. Hence, the case is closed and accordingly an order of "No Dispute Award" is hereby passed.

ORDER

Let an "Award" be and the same is passed as "No Dispute" existing. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 574.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/भ्रम न्यायालय, असनसोल के पंचाट (आईडी संख्या 38/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-2-2013 को प्राप्त हुआ था।

[सं. एल-22012/249/2005-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 12th February, 2013

S.O. 574.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/2006) of the Central Government Industrial Tribunal-cum-Labour Court Asansol as shown in the Annexure in the Industrial Dispute between the management of Under Kenda Area of M/s. ECL, and their workmen, received by the Central Government on 12-2-2013.

[No. L-22012/249/2005-IR (CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sri Jayanta Kumar Sen, Presiding Officer

Reference No. 38 of 2006

Parties: The management of Haripur Colly, M/s. ECL,
Burdwan

Vs.

The Gen. Secy., KMC, Burdwan (WB)

Representatives:

For the management: Sri P.K. Das, Ld. Advocate

For the union (Workman): Sri Rakesh, Ld. Representative

Industry: Coal

State: West Bengal

Dated - 01-01-13

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its Order No. L-22012/249/2005-IR(CM-II) dated 02-08-2006 has been pleased to refer the following dispute for adjudication by this Tribunal:

SCHEDULE

"Whether the action of the management of Haripur Colliery Under Kenda Area of M/s. ECL in dismissing Shri Deepak Bouri Conveyer Operator, U.M. No. 532526 w.e.f. 16-03-2001 is legal and justified? If not, to what relief is the workman entitled?"

Having received the Order of Letter No. L-22012/249/2005-IR(CM-II) dated 02-08-2006 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 38 of 2006 was registered on 14-08-2006 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, it has been found that Sri Rakesh Kumar, Ld. Representative of the Union, submits that the management will allow the workman to join duty if the case is withdrawn. Since the case is already settled between both the parties, the case is closed and accordingly an order of "No Dispute Award" is hereby passed.

ORDER

Let an "Award" be and the same is passed as "No Dispute" existing. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 575.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान इन्सेक्टिसाइड्स लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी-1/31 of 2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05-02-2013 को प्राप्त हुआ था।

[सं. एल-42011/41/2011-आई आर (डी.यू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 12th February, 2013

S.O. 575.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-1/31 of 2011) of the Central Government Industrial No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the Hindustan Insecticides Ltd. and their workman, which was received by the Central Government on 05-02-2013.

[No. L-42011/41/2011-IR (DU)]

JOHAN TOPNO, Under Secy.

—ANNEXURE—

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

Present : Justice G.S. Sarraf, Presiding Officer

Reference No. CGIT-1/31 of 2011

Parties: Employers in relation to the management of Hindustan Insecticides Ltd.

And

Their workmen

Appearances :

For the Management : Mr. S.C. Hegde, Adv.

For the Workmen : Mr. J.P. Sawant, Adv.
Withdrew his power

State : Maharashtra

Mumbai, dated the 11th day of January, 2013

AWARD

1. In exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 the Central Government has referred the following dispute for adjudication to this Tribunal.

Whether the Union's demand of disparity in Operator/Analyst Grade and rectification of basic pay in respect of Shri P.G. Sontakke and M.T. Pawar at par with existing Analyst in Lab. Section, is legal and justified? What benefits and privileges are the workmen entitled to?

2. Shri J.P. Sawant learned counsel for the Union has filed an application today to allow him to withdraw his appearance in this matter. The prayer is granted.

3. The Union has not filed any statement of claim.

4. In the absence of any pleading and proof, the workmen are not entitled to any benefits and privileges.

Award is passed accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 576.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेंट ऑफ पोस्ट आफिसिस और अदर्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सी.जी.आई.टी. आफ 64 आफ 2004/आई.टी.सी. 07/1997 ओल्ड) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2013 को प्राप्त हुआ था।

[सं. एल-42011/47/1995-आई आर (डी.यू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 12th February, 2013

S.O. 576.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGITA of 64 of 2004 New, ITC 7/1997 Old) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Senior Superintendent of Post Offices and Others and their workman, which was received by the Central Government on 5-2-2013.

[No. L-42011/47/1995-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Binay Kumar Sinha,
Presiding Officer,
CGIT-cum-Labour Court,
Ahmedabad, Dated 24th December, 2012

Reference: CGITA of 647 of 2004 New

Reference: ITC. 07/1997 (Old)

(1) The Senior Superintendent of Post Offices,
Vadodara East Division-390001.

(2) The Post Master, Raopura Post Office,
Vadodara-390001.

..First Partv

And their workman

1. Shri K.M. Solanki.
2. Shri B.A. Shaikh
3. Shri S.F. Malik
4. Shri K.G. Chouhan
5. Shri R.A. Basava.

through the Circle Secretary,
All India Postal Employee's Union,
Postman Clan IV and EDAS,
C/o Shri H.F. Quereshi,
Bechar Gandhichal,
Opp. Behrampura Post Office,
Ahmedabad-380022

...Second Party

For the first party: Shri Prakashchandra M. Rami,
Advocate (AGP)

For the second party: Pavankumar Handa,
Advocate

AWARD

The Central Government/Govt. of India/Ministry of Labour/Shram Mantralaya, New Delhi by its order No. L-42011/47/1995-IR (DU) dated 10th July, 1997. Considering an Industrial Dispute exists between employers in relation to the management of Senior Suptd. of Post Officer, Vadodara and their workman in exercise of powers conferred by clause (d) of sub-section (i) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947 referred the dispute for adjudication to the Central Govt. Industrial Tribunal, Vadodara, formulating the terms of reference as follows :—

SCHEDULE

“Whether the action of the management of Senior Superintendent of Post offices, Vadodara East Division, Vadodara in terminating the service of S/Shri K. M. Solanki, B.A. Shaikh, S. F. Malik, K. G. Chauhan and R. A. Basava, Postman w.e.f. 30-9-1988 is legal and justified? If not to what relief the said workman are entitled for?”

2. The notices were issued to the parties and they appeared and filed pleadings 2nd party vide Ext.4 submitted statement of claim on 29-4-1999 and its copy received by 1st party. The 1st party also filed its written statement vide Ext. 10 on 25-1-2000, and its copy received by 2nd party's lawyer.

3. The statement of claim was jointly filed by four workmen K.M. Solanki, B.A. Shaikh, S.F. Malik, and R.A. Basava who signed the statement of claim and its verification. The fifth workman K. G. Chauhan did not appear

to contest nor filed any separate statement of claim or even filed any pursis adopting the statement of claim at Ext. 4. Their case is that they were working under the direct control and management of Chief Postmaster General, Senior Postmaster GPO, Raopura, Baroda and Senior Suptd. of Postmaster, Vadodara, East Division, they were appointed on vacant post of Postman but were terminated by illegal and unfair order. During the course of their tenure no chargesheet or memo had been served and they were honest and diligent in their works. Further case is that the persons junior to them are taken in job and absorbed on the posts on which the 4 workmen were performing works. In the self-prepared table workmen K. M. Solanki has claimed that he worked for 189 days in 1987, 258 days in 1983, 290 days in 1984, 300 days in 1985, 283 days in 1986, 224 days in 1987 and 175 days in 1988. The workman Rajendra Anop Singh Vasava has claimed 215 days of works in 1984, 296 days in 1985, 291 days in 1986, 289 days in 1987 and 225 days in 1988, workman Bashiruddin A. Shaikh has claimed 259 days of work in 1983, 299 days in 1984, 304 days in 1985, 292 days in 1986, 271 days in 1987 and 221 days in the year 1988. The workman Salimian F. Malik has claimed 297 days of work in 1984, 300 days in 1985, 293 days in 1986, 300 days in 1987 and 223 days in the year 1988. The claim of the workmen are that they completed 240 days of work in calendar years. They have been illegally terminated by common verbal order dated 30-9-1988. They were not given retrenchment notice and the provision of Section 25- F was not followed by the employer (1st party). On these grounds prayer made for their reinstatement with full back wages and other consequential benefits and with cost of the litigation.

4. The case of the management of the 1st party as per written statement dated 25-1-2000 at Ext. 10 is that the s/c of the 2nd party is misconceived, misleading and untenable, the 2nd party has no cause of action and the dispute raised by the 2nd party in this reference is not maintainable and is fit to be rejected. Contention of the 1st party is that the workman were not appointed as regular Postman rather they were engaged on leave arrangement of Postman outsiders and they were engaged by the concerned sub Post Master on leave arrangement of the regular Postman on oral order and no specific orders were issued to the workmen. The workmen were engaged by the concerned Postmaster on oral order as such when regular Postman remained on their duty at that time outsiders engaged vide them/him have to be relieved automatically without any order/notice or memo or chargesheet etc. It has been denied that any one is absorbed in Postman cadre who were junior to the workmen. Further case is that the workmen are not casual worker rather they were engaged only on leave arrangement. Further case is that the workmen have not worked continuously only at one place rather worked in different post offices with break up period and never worked for 240 days in any calendar year. The workmen were out

siders as such they were not eligible for appointment as a postman without any examination. The 1st party have denied the content of para 1 to 10 of the statement of claim. On these scores prayer was made to dismiss the reference with cost.

5. In view of pleadings of the parties the following issues are taken up for decision in this reference case.

ISSUES

- (I) Whether the reference is maintainable ?
- (II) Have the workmen's got valid cause of action ?
- (III) Whether workmen K. M. Solanki, B.A. Shaikh, S.F. Malik, R.A. Vasava and K. G. Chauhan have completed 240 days of works in calendar year preceding their termination w.e.f. 30-9-1988 ?
- (IV) Whether the action of the Management of Senior Suptd. of Post Offices, Vadodara East Division, Vadodara in terminating those workmen in legal and justified ?
- (V) Whether the workmen are entitled to the relief of reinstatement with back wages and other benefits as claimed ?
- (VI) What orders are to be passed in this case ?

Findings

6. ISSUE NO. III & V

The four workmen out of five who are making contest in this case have examined themselves and were also cross-examined by the lawyer of the first party. Workman K.M. Solanki orally deposed at Ext. 16, Rajendrabhai A. Vasava at Ext. 28 Salim F. Malik at Ext. 27 and Bashruddin A. Shaikh at Ext. 32. K.M. Solanki in his cross-examination stated that this fact is true that he was not going for duty the salary of that day was deducted' and that he was working as outsider. He also admitted that he did not appear in departmental examination since he studied below S.S.C. and so could not be made permanent employee. Rajendra A. Vasava during cross-examination admitted that he did not face interview and he was not given appointment letter, he also admitted that when remained not on duty on days he was not getting wage and his salary was being deducted. He admitted that for regular recruitment in the organization (postal service) the departmental examination is being taken and without appearing at the departmental examination the regular appointment is not being given. Workmen Salim F. Malik during cross-examination admitted that he studied upto 9th class. He also admitted that postal Deptt. has not given him appointment letter. He was not called for interview, not faced any interview and that when on any day he remained not on duty he was not getting wages for that day and salary was deducted. His evidence go to show that he was incompetent and illegible for appearing at

departmental exam. He admitted that he was not permanent employee. Workman Bashruddin A. Shaikh stated that he has passed SSC examination. He also admitted that he did not face interview and he did not appear in departmental examination and that he was not given identity card and that for regular appointment departmental examination is being taken. From the evidence of 2nd party workmen it is clear that K.M. Solanki, Rajendrabhai A. Vasava and Salim F. Malek are non-matriculate and that all the four were outsider and so they have not appeared at departmental examination whereas it compulsory to give departmental examination is postal departmental.

7. It has been argued by the lawyer of the first party that in the postal departmental advertisement in newspaper is published inviting application from eligible candidate and departmental exam is conducted and then successful candidates are being appointed/recruited, whereas the workmen were outsider and were temporarily engaged in leave vacancy of regular postman and so they cannot be considered as regular/permanent employees.

8. The workmen in their joint statement of claim have given the working days per calendar year without any basis. Such statement is unauthenticated having no any basis particularly as per there admission in their evidence that they were not temporary or regular appointees rather were outsider and that means they were engaged in different post office for the period of leave vacancy of regular postman and they were not getting wages when they did not report for duty. Their such claim that they completed 240 days of works in calendar years are falsified by the documentary evidences produced by the 1st party under Ext. 47/1 to 44/4. Ext. 47/1 is Annexure A regarding works done by K.M. Solanki (outsider) that shows that he worked for 134 days in 1982, 49 days in 1983, 136 days in 1984, 136 days in 1985, 109 days in 1986, 15 days in 1987 and 06 days in 1988. There is also supporting paper regarding payment of wages corresponding to those period yearwise/monthwise. Ext. 47/2 is Annexure B regarding works done by S.F. Malek (outsider) that shows that he worked for 21 days in the year 1985-18 days in April and 03 days in June, 112 days in the year 1986-21 days May, 15 days June, 16 days July, 15 days September, 11 days October, 08 days November and 26 days in December, 39 days in the year 1987-16 days in September, 01 day in October, and 02 days in November. There is also supporting paper regarding payment of wages corresponding to those period yearwise/monthwise. Ext. 47/3 is Annexure C regarding works done by R.A. Vasava (outsider) that shows that he worked for 191 days in the year 1983, 223 days in the year 1984, 55 days in the year 1985, 166 days in the year 1986, 121 days in the year 1987 and 97 days in the year 1988 (from January to August). There is also supporting paper regarding payment of wages corresponding to those period yearwise/monthwise. Ext. 47/4 Annexure D regarding works done by B.A. Shaikh (outsider) that shows that he worked for 182

days in the year 1983, 65 days in the year 1984, 175 days in the year 1985, and 79 days in the year 1986. He did not worked in the year 1987 and 1988. There is also supporting paper regarding payment of wages to him corresponding to those period year wise/month wise. The Annexure A, B, C, D marked Ext. 47/1 to 47/4 are duly certified by Sr. Postmaster Vadodara Head Office-390001. There is no any reason to disbelieve those documentary evidence produced by the 1st party. On the other hand there is no iota of evidence of the second party that they were not outsider engaged for work on leave of absence of regular postman and that they were engaged/appointed against regular vacancies. There is also no iota of evidence except own version of those four workmen that they worked for 240 days in each calendar year. On the other hand the documentary evidence Ext. 47/1 to 47/4 are well corroborated by the oral evidence of Shri Ahmed Gafurbhai Vora Suptd of Post Office at Ext. 36. He also stated in cross-examination by 2nd party that the permanent employees are recruited through Recruitment Board. Whereas workmen were temporary employee (outsider) and so it is not necessary to do the enquiry against them and not necessary to give them retrenchment notice (u/s 25 F of I.D. Act).

9. As against such evidence there is dearth of cogent evidence on behalf of the 2nd party workman. More so all the four persons in their oral evidence vide Ext. 16, 27, 28 and 32 have admitted that they were engaged temporarily as outsider worker and they studied less than S.S.C and that they did not appear in departmental Exam since they were not eligible to give examination and they did not have required qualification of permanent/regular employee.

10. In view of the discussions and consideration of the evidence discussed above, I find and hold that none of the second party workman has completed 240 days of works in the calendar year preceding their oral termination on 30-9-1998 and so there was no need for giving them notice u/s 25 F of the I.D. Act 1947. I further find and hold that the workmen involved in this case are not entitled to get relief of their reinstatement or any back wages. Thus issue No. III & V are decided against the 2nd party.

11. ISSUE No. I & II

In view of the findings to issue No. III & V in the foregoing, the reference is not maintainable and the 2nd party have no cause of action to raise Industrial Dispute against the management of the 1st party.

12. ISSUE No. IV

In view of the findings in the foregoing, I find and hold that the action of the management of Senior Superintendent of Post Offices, Vadodara East Division Vadodara in terminating the services of Shri K.M. Solanki, B.A. Shaikh, S.F. Malik, K.G. Chauhan and R.A. Vasava outsider postmen w.e.f. 30-9-1988 is legal and justified. This issue is decided in favour of the 1st party.

13. ISSUE No. VI

The reference is dismissed since the 2nd party workmen is not entitled to any relief. No order as to any cost.

This is my award.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 577.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिभिजनल इंजीनियर, टेलीकाम प्रोजेक्ट, शिमला (हिमाचल) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.2, चंडीगढ़ के पंचाट (संदर्भ संख्या 884/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2013 को प्राप्त हुआ था।

[सं. एल-40012/140/2004-आई आर (डी.यू.)]
जोहन तोपनो, अवसर सचिव

New Delhi, the 12th February, 2013

S.O. 577.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 884/2005) of the Central Government Industrial Tribunal/Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the Divisional Engineer, Telecom Project, Shimla (HP) and their workman, which was received by the Central Government on 5-2-2013.

[No. L-40012/140/2004-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri A.K. Rastogi, Presiding Officer

Case No. I.D.884/2005

Registered on 12-9-2005

Sh. Bhag Singh Sharma, S/o Sh. Pritam Singh, Village Bhatudi, Tehsil Shillai, Distt. Sirmour, Sirmour (HP).

...Petitioner

Versus

1. The Divisional Engineer, Telecom Project, Sanjay Sadan, Chhota Shimla, Shimla (HP)

2. The Managing Director, BSNL, New Delhi.

...Respondent

Appearances :

For the workman : None.

For the Management : Sh. K.K. Thakur Advocate.

AWARD

Passed on 2nd January, 2013

Central Government vide Notification No. L-40012/140/2004 (IR(DU)) Dated 10-1-2005, by exercising its powers under Section 10 Sub-Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to the Tribunal:-

"Whether the action of the management of BSNL, Telecom Project, Shimla to retrench the workman Sh. Bhag Singh Sharma w.e.f. 30-11-2002 is illegal and unjustified? If so, to what relief the concerned workman is entitled to and from which date?"

The case of the workman is that he had been appointed as Store Keeper on 7-5-1998 in the Office of the Divisional Engineer (Telecom Project) Sanjay Sadan, Chhota Shimla II but his services were illegally terminated orally on 4-6-1999. However in conciliation proceedings on a demand notice he was taken back in the service but his services were again illegally terminated on 30-11-2002 against the provisions of Section 25F of the Act. He has prayed for his re-engagement with full back wages and consequential benefits.

The reply to the claim statement was not filed, by the management. But an affidavit of Jai Ram DET Project was filed on behalf of the management. Actually this affidavit is by way of reply to the claim statement. It has been stated that the 'workman had been engaged orally on 7-5-1998 as casual worker on daily wages for a specific project scheme on contract basis as stop gap arrangement and as per the requirement and need of the Department it was admitted that he had completed 240 days in a calendar year. It has been further alleged that retrenchment order dated 30-10-2002 is legal as per provision contained in Section 25F of the Act. The workman is not entitled to any relief and as per agreement in conciliation proceedings he cannot claim back wages.

Workman examined himself. However there is a notice for retrenchment available on record. It is dated 30-10-2002. Through this notice the workman had been informed that he would stand retrenched w.e.f. 30-11-2002 i.e. on the expiry of one month's notice period. He had also been asked to collect the compensation under the provisions of Section 25F of the Act from the Senior Accountant Officer in the office of the Deputy General Manager, Telecom Project Shimla. It is therefore clear that while retrenching the workman the provisions of Section 25F of the Act were duly complied with.

It may mentioned here that while the case was fixed for the remaining evidence of the workman the workman absented himself since 20-10-2008 and he did not appear despite notice sent by registered post to him. The registry returned with the postal endorsement that no person of such name is available on the given address. Hence the case proceeded ex parte against the workman and his evidence was closed. Management however did not lead

any evidence and subsequently none appeared for management also.

However from the record it is clear that the retrenchment of the workman was according to the provisions of Section 25F of the Act. There is no allegation that it was illegal or unjustified for any other reason also. Hence, it is held that the retrenchment of the workman w.e.f. 30-11-2002 is legal and justified. Workman is not entitled to any relief. Let two copies of the award be sent to the Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 578.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में केंद्रीय सरकार डाइरेक्टर, सैन्सस ऑपरेशनस, जयपुर के प्रबंधन के संयुक्त नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण कोटा के पंचाट (संदर्भ संख्या 24/2002) प्रकाशित करती है, जो केंद्रीय सरकार को 5-2-2013 को प्राप्त हुआ था।

[सं. एल-42012/83/1998 आई आर (डी.यू.)]

जोहन टोपनो, अवर सचिव

New Delhi, the 12th February, 2013

S.O. 578.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref No. 24/2002 of Industrial Tribunal Kota as shown in the Annexure in the Industrial Dispute between The Director, Census operations, Jaipur and their workman, which was received by the Central Government on 5-2-2013.

[No. L-42012/83/1998-IR (DU)]

JOHAN TOPNO, Under Secy.

अनुबन्ध

औद्योगिक न्यायाधिकरण/केंद्रीय/कोटा/राजस्थान

पीठासीन अधिकारी—श्री प्रकाश चन्द्र पगारिया, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : औ. न्या./केंद्रीय/-24/2002

दिनांक स्थापित : 10-5-2002

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क्रमांक एल-42012/83/98-आई आर (डीयू) दिनांक 10-4-2002

निर्देश विवाद अन्तर्गत धारा 10(1) (घ)

औद्योगिक विवाद अधिनियम, 1947

मध्य

कृष्णगोपाल पुत्र धूलीलाल शर्मा निवासी 2-जे-12 महावीरनगर तृतीया, कोटा

-प्राथी श्रमिक

एवं

डाॅयरेक्टर, सैन्सस ऑपरेशन, 6-बी झालाना ढूंगरी, जयपुर।

-अप्राथी नियोजक

उपस्थित

प्रार्थी श्रमिक की ओर से प्रतिनिधि:- कोई उपस्थित नहीं

अप्रार्थी नियोजक की ओर से प्रतिनिधि:- श्री सी.बी. सोरल

अधिनिर्णय दिनांक: 12-12-2012

: अधिनिर्णय :

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासंगिक आदेश दि. 10-4-2002 के द्वारा निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10 (1) (घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :-

"Whether the action of the Census Department through Director of Census Operation Rajasthan, Jaipur in discontinuing the services of Sh. Krishan Gopal S/o Sh. Dhuli Lal Sharma w.e.f. 30-6-92 is legal and justified? If not, to what relief the workman is entitled and from what date?"

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को नोटिस/सूचना जारी का विधिवत अवगत करवाया गया।

3. प्रार्थी कर्मकार की ओर से क्लेम स्टेटमेन्ट पेश किया गया जिसमें वर्णित किया गया कि महापंजीयक, भारत सरकार के गृह मंत्रालय द्वारा जनगणना का कार्य करवाया जाता है एवं जिला स्तर पर कोटा शहर में सहायक निदेशक, जनगणना कार्य के लिए श्रमिकों की नियुक्ति मौखिक रूप से की गयी एवं इसमें प्रार्थी को भी 24-6-91 से 900 रु. प्रतिमाह की दर से कम्पायलर के पद पर मौखिक रूप से नियुक्ति दी गयी। बाद में सहायक निदेशक का कार्य समाप्त हो गया। प्रार्थी ने 24-6-91 से 30-6-92 तक लगातार 240 दिन से अधिक समय तक कार्य किया। महापंजीयक, भारत सरकार, नई दिल्ली के द्वारा कम्पायलर के पद पर 31-12-93 तक की सेवा अवधि बढ़ा दी गयी थी परन्तु प्रार्थी को 30-6-92 को कार्यालय समय पश्चात् ही सेवा से हटा दिया गया। सेवा समाप्ति मौखिक आदेश से की गयी। हटाने से पहले धारा 25-एफ, जी एवं एन आदि की पालना नहीं की गयी। प्रार्थी ने माननीय उच्च न्यायालय में भी एक याचिका पेश की जिसमें समझौता अधिकारी के यहां कार्यवाही करने का निर्देश दिया गया। बाद में प्रार्थी ने पुनः याचिका उच्च न्यायालय में पेश की जिस पर विवाद को औद्योगिक न्यायाधिकरण को रेफर किये जाने का आदेश दिया गया। अतः प्रार्थी ने अपने क्लेम स्टेटमेन्ट के माध्यम से अप्रार्थी द्वारा दि. 30-6-92 से उसकी की गयी सेवा मुक्ति को अनुचित व अवैध घोषित करने के साथ ही नियमित सेवा में घोषित किये जाने व बकाया समस्त परिलाभ दिलाये जाने की मांग की।

4. अप्रार्थी द्वारा क्लेम स्टेटमेन्ट का जवाब पेश किया गया जिसमें वर्णित किया गया कि प्रार्थी द्वारा विवाद काफी वर्षों की देरी से पेश किया गया है। जनगणना का कार्य 10 वर्ष में एक बार कराया जाता है एवं इस कार्य के लिए संविदा पर कर्मचारियों को जिसमें कम्पायलर/कोडर/चेकर आदि पद होते हैं, लगाया जाता है। संविदा समाप्त होने पर कर्मचारी की सेवायें स्वतः समाप्त हो जाती हैं। प्रार्थी

भी अनुबन्ध के आधार पर लगाया गया था एवं अनुबन्ध समाप्त होने के साथ ही उसकी सेवायें भी समाप्त हो जाती हैं। इसके अलावा अन्य कई तथ्यों का उल्लेख करते हुए अप्रार्थी ने प्रार्थी का क्लेम स्टेटमेन्ट खारिज किये जाने की प्रार्थना की।

5. इसके पश्चात् साक्ष्य प्रार्थी में प्रार्थी कृष्णगोपाल का शपथ-पत्र पेश हुआ, प्रार्थी द्वारा उससे जिरह की गयी, तत्पश्चात् अप्रार्थी की साक्ष्य में गवाह एच.सी.शर्मा का शपथ-पत्र पेश हुआ, प्रार्थी द्वारा उससे जिरह की गयी।

6. उभयपक्ष की साक्ष्य समाप्ति के पश्चात् पत्रावली बहस अन्तिम हेतु नियत की जाती रही एवं दि. 8-11-12 को प्रार्थी के प्रतिनिधि ने एक प्रार्थना-पत्र इस आशय का पेश किया कि उन्हें समाचार-पत्र के माध्यम से यह पता चला है कि कर्मकार कृष्णगोपाल की मृत्यु हो चुकी है, अतः उसकी पत्नी उषा शर्मा को उसका विधिक प्रतिनिधि बनाया जाय। इस पर न्यायाधिकरण ने उसी दिन यह आदेश पारित किया था कि कर्मकार का मृत्यु प्रमाण-पत्र व पी.एम. रिपोर्ट जो भी हो, वे पेश किये जावें तथा प्रार्थना-पत्र स्वयं उसके विधिक प्रतिनिधि द्वारा ही पेश किया जाना चाहिए। प्रार्थी के प्रतिनिधि ने प्रार्थना-पत्र आदेश 22 नियम 3, 4-ए, 10-ए जा.दी. का पेश किया। इस प्रकार का प्रार्थना-पत्र कौन पेश कर सकता है, इस सम्बन्ध में आदेश 22 नियम 3 जा.दी. के प्रावधान को उद्भूत करना उचित होगा जोकि निम्नानुसार है :-

"Procedure in case of death of one of several plaintiffs or of sole plaintiff.--(1) Where one of two or more plaintiffs dies and the right to sue does not survive to the surviving plaintiff or plaintiffs alone, or a sole plaintiff or sole surviving plaintiff dies and the right to sue survives, the Court, on an application made in that behalf, shall cause the legal representative of the deceased plaintiff to be made a party and shall proceed with the suit.

(2) Where within the time limited by law no application is made under sub-rule(1), the suit abate so far as the deceased plaintiff is concerned, and, on the application of the defendant, the Court may award to him the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff."

7. हस्तगत मामले में ना तो मृतक कर्मकार के विधिक प्रतिनिधि की ओर से कोई प्रार्थना-पत्र पेश हुआ है एवं ना ही कहीं ऐसा उल्लेख हुआ है कि वही उसकी एकमात्र वारिस हो। ऐसे मामले में तो प्रार्थना-पत्र स्वयं उस विधिक प्रतिनिधि की ओर से ही पेश होना चाहिए एवं यदि विधिक प्रतिनिधि पेश नहीं कर सकता हो तो वह अपने अधिकार-पत्र के जरिये अपने विधिक प्रतिनिधि या अपने अधिवक्ता को इस हेतु अधिकृत कर सकता है। इस मामले में ना तो श्रीमती उषा शर्मा की ओर से विधिक प्रतिनिधि के पक्ष में ऐसा प्रार्थना-पत्र या वकालतनामा जारी किया हुआ है एवं ना ही ऐसा प्रकट हुआ है कि वही इस मामले में एक मात्र विधिक प्रतिनिधि होकर पक्षकार बनना चाहती हो। अतः जहाँ उत्तरजीवी विधिक प्रतिनिधि की ओर से पक्षकार बनने बाबत कोई रुचि नहीं ली जा रही

हो तो न्यायाधिकरण जबरन या अपनी इच्छा से किसी को विधिक प्रतिनिधि नहीं बना सकती है। आदेश 22 नियम 3 जा.दी. का सारांश भी यही है कि ऐसे विधिक प्रतिनिधि को ही या उसके प्रतिनिधि के माफत ऐसा प्रार्थना-पत्र पेश होना चाहिए। हस्तगत मामले में इन दोनों ही चीजों का अभाव है। अतः ऐसी परिस्थिति में ना तो अनिश्चितकाल तक मामला इसी प्रयोजन हेतु लम्बित रखा जा सकता है एवं ना ही मृतक के विधिक प्रतिनिधि के आने का इन्तजार किया जा सकता है। कर्मकार/श्रमिक की मृत्यु बाबत भी कोई स्पष्ट पुख्ता तथ्य जिसमें मृत्यु प्रमाण-पत्र आदि होते हैं, वे भी पेश नहीं किये गये हैं, फिर भी विधिक प्रतिनिधि द्वारा किया गया अभिकथन कर्मकार की मृत्यु के बारे में मान भी लिया जाता है तो भी उत्तरजीवी विधिक प्रतिनिधि द्वारा ही प्रार्थना-पत्र पेश किया जाना चाहिए या वे स्वयं नहीं आ सकती है तो अपने प्रतिनिधि के माध्यम से ऐसा प्रार्थना-पत्र पेश कर सकती है परन्तु दोनों में से एक भी कार्यवाही नहीं होने से मामला स्वतः उपशमित हो जाता है एवं ऐसे में कोई अनुतोष दिया जाना भी सम्भव नहीं हो पाता। हस्तगत मामले में भी प्रार्थी कर्मकार की मृत्यु हो जाने व उसके किसी विधिक प्रतिनिधि द्वारा विधिक प्रतिनिधि बनने का कोई प्रार्थना-पत्र पेश नहीं किये जाने से कर्मकार की मृत्यु के साथ ही मामला उपशमित होकर निष्प्रभावी हो जाता है एवं ऐसे में कोई अनुतोष दिया जाना सम्भव नहीं है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा अपने प्रासांगिक आदेश क्र. एल-42012/83/98-आईआर (डीयू) दिनांक 10-4-2002 के जरिये सम्प्रेषित निर्देश/रेफ्रेन्स को इसी अनुरूप उत्तरित किया जाता है कि प्रार्थी कर्मकार कृष्णगोपाल की मृत्यु हो जाने व उसके किसी विधिक प्रतिनिधि द्वारा विधिक बनने का कोई प्रार्थना-पत्र पेश नहीं किये जाने से कर्मकार की मृत्यु के साथ ही मामला उपशमित होकर निष्प्रभावी हो जाता है एवं ऐसे में कोई अनुतोष दिया जाना सम्भव नहीं है।

प्रकाश चन्द्र पगारीया, न्यायाधीश
नई दिल्ली, 12 फरवरी, 2013

का.आ. 579.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाइरेक्टर, पोस्ट ग्रेजुएट इन्सटीट्यूट ऑफ मेडीकल एजुकेशन एवं रिसर्च चंडीगढ़ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 232/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2013 को प्राप्त हुआ था।

[सं. एल-42012/74/2010-आईआर (डी.यू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 12th February, 2013

S.O. 579.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 232/2012) of the Central Government Industrial Tribunal-cum-Labour Court No.II, Chandigarh now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Director, Post Graduate

Institute of Medical Education & Research, Ghandigarh and their workman, which was received by the Central Government on 5-2-2013.

[No. L-42012/74/2010-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: SRI A.K. RASTOGI, Presiding Officer.

Case No. I. D. 232/2012

Registered on 24-2-2012

Sh. Shailendra Kumar Pandey S/o Sh. Raj Kishore Pandey, H.No. 9, Village Saranglar, Chandigarh.

....Petitioner

Versus

The Director, Post Graduate Institute of Medical Education & Research, Sector 12, Chandigarh.

....Respondent

APPEARANCES

For the workman : None.

For the Management : Sh. N. K. Zakhmi Advocate.

AWARD

Passed on 11th January, 2013

Central Government vide Notification No. L- 42012/74/2010-IR (DU) Dated 9-2-2012, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial Dispute for adjudication to this Tribunal :—

“Whether the action of the management of Post Graduate Institute of Medical Education & Research Sector 12, Chandigarh represented through its Director in terminating the service of Sh. Shailendra Kumar Pandey S/o Sh. Raj Kishore Pandey, House No. 9, Village Saranglar, Chandigarh is just and legal? What relief the workman is entitled to and from which date?”

After receiving the reference notices were issued to the parties. The workman did not turn up despite notice sent by registered post to him on 2-5-2012. The notice received back unserved with the postal endorsement “no such person”. Clearly the workman is not available at the given address. Since he has failed to appear and file claim statement hence, a ‘No Dispute’ award is passed in the case. Let two copies of the award be sent to the Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 12 फरवरी, 2013

का.आ. 580.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकाम डिस्ट्रिक्ट इंजीनियर, बुलढाना के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ सं. सी. जी.आई.टी/एन.जी.पी./48/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2013 को प्राप्त हुआ था।

[सं. एल-40012/02/1994-आई आर (डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 12th February, 2013

S.O. 580.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/NGP/48/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom District Engineer, Buldhana and their workman, which was received by the Central Government on 5-2-2013.

[No. L-40012/02/1994-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/48/2002 Date: 07-01-2013.

Party No.1 : The Telecom District Engineer,
Telecom Department, Buldhana,
At. Khamgaon-444303. (MS)

Versus

Party No.2 Shri Praveen Dattatreya Pande,
Ramnagar, Ward No. 28, At & Post:
Buldhana, Distt. Buldhana (MS).

AWARD

(Dated: 7th January, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of Telecom District Engineer and their workman, Shri Praveen Pande, to CGIT-cum-Labour Court, Jabalpur for adjudication, as per letter No. L-40012/2/94-IR (DU) dated 22-02-1995, with the following schedule:

"Whether the action of the Telecom District Engineer, Buldhana at Khamgaon-444 303, by not

granting temporary status to Shri Praveen Dattatreya Pande, casual labour till date and immediately retrenching his services with effect from 14-09-1993 after the receipt of the Notification of vacancies, dt. 28-08-1993 is legal and justified? If not, to what relief is the workman entitled?"

Subsequently, the case was transferred to this Tribunal for adjudication in accordance with law.

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Praveen Pande, ('the workman' in short), filed the statement of claim and the management of District Engineer, Telecom, ('Party No. 1' in short) filed its written statement.

The case of the workman as projected in the statement of claim is that he is a matriculate and he holds driving licence to drive all kinds of vehicle including heavy motor vehicles and he was employed as a casual labourer in the office of SDO, Telegraph, Buldhana w.e.f. 04-01-1984, after his name was sponsored by the employment exchange, Buldhana and he worked continuously as a casual labourer till his services were discontinued, orally w.e.f. 01-06-1985 and he worked for 355 days in the year 1984 and 135 days in the year 1985 and he approached the Telecom District Engineer, Akola by representations dated 09-05-1989 and 07-01-1992 and the Telecom District Engineer, Buldhana by representations dated 03-05-1992, 29-01-1993 and 08-07-1993 with a request to take him on duty and to regularize his services by giving him temporary status as casual labourer.

The further case of the workman is that he was again employed w.e.f. 13-04-1991 as a casual driver with a pay of Rs. 1830 per month and he was given the job of driver for driving the jeep, bearing registration no. MH-30-8702 of the SDO, Telegraph, Buldhana and he worked continuously and was paid the salary on monthly basis upto November, 1992 and thereafter, he was being paid his salary on weekly basis and he worked for 366 days in the year 1992 and 285 days in the year 1993 and according to the circulars of the department, he was entitled to be regularized by granting temporary status as casual labour, as he had been employed before the cut off date i.e. 30-03-1985 and had completed 240 days during the calendar year, 1984-85 and the party no. 1 has the power to condone the absence/break in service and the party no. 1 ought to have condoned the break in his services for the period from 01-06-1985 to 13-04-1991 and during the said period he was not employed and the Telecom District Manager had written a letter dated 20-02-1993 to the General Manager by strongly recommending his case for grant of temporary status, but nothing was learnt thereafter and when he was hoping that his services would be regularized by granting him temporary status, the SDO, Telegraph, Buldhana by order dated 14-06-1993, retrenched him from services w.e.f. 15-10-1993 and no retrenchment compensation was paid to him and the statement made in the order dated 14-09-1993 that "the work against which, he was employed

is ceased to be there" was factually incorrect, as the jeep which he was driving was there and party no. 1 is using the services of one casual labourer, Mr. Arun Patil to drive the said jeep and there is also another Matador with party no. 1 and no driver has been appointed to drive the said vehicle and the services of other casual labourers are being utilized for driving the said Matador.

It is further pleaded by the workman that his retrenchment by notice dated 4-9-1993 was patently illegal, because the mandatory provisions of section 25-F of the Act were not complied and retrenchment compensation was not paid to him at all and as such, his retrenchment is illegal and liable to be quashed and set aside and the Telecom District Engineer, Buldhana on 25-03-1993 issued a notification for recruitment to the cadre of motor drivers and it is clear from the said notification that there were two vacancies, out of which one was meant for departmental candidate and the said facts clearly established that there was need for employing a motor driver and therefore; his retrenchment on the ground of non availability of work was malafide and as he was insisting to regularize his services, to silence him, the impugned retrenchment was restored to and the impugned order of retrenchment in the circumstances being malafide is liable to be quashed and set aside.

The workman has prayed to quash and set aside the impugned order of retrenchment dated 14-09-1993 and to reinstate him in service as a casual motor driver with continuity and back wages and to direct the party no. 1 to grant him temporary status and to regularize him in service with all consequential benefits.

3. The party no. 1 in their written statement, denying the allegations in the statement in claim have pleaded inter-alia that the name of the workman was not sponsored by the employment exchange, Buldhana, but he was employed as a casual labourer with effect from 14-01-1984 and his services were discontinued with effect from 01-06-1985 and he did not work for 355 days in 1984 or 135 days in 1985 and the workman approached the District Engineer, Akola by making representation and his representation was considered and rejected by them, as there could not be a regularisation of employment after a gap of more than five years, as per the circular.

The further case of the party no. 1 is that due to repeated request made by the workman and on sympathetic consideration, the workman was employed as a casual driver w.e.f. 13-04-1991 by them and in the order of appointment, the workman was given a clear understanding that his appointment was that of a casual worker and he would not have any claim for regular employment and accepting such conditions, the workman resumed his duties and the workman did not work for 360 days in 1992 and 285 days in 1993 and the workman is not entitled for regularisation of his service or for grant of

temporary status and since the workman was in casual employment, his services were rightly discontinued w.e.f. 15-10-1993 and he was not entitled for any retrenchment compensation and as there was no work available with them, the casual employment of the workman was put to an end and Arun Patil is their permanent employee, who has been in service much prior to the workman i.e. from 01-03-1982 and the workman did not complete 240 days of work in 1984-85 and the retrenchment of the workman is not illegal and they did not commit breach of the provisions of section 25-F of the Act and the workman was also found not suitable for employment, as he failed fulfill the conditions stipulated in the notification for appointment of motor drivers and he was rightly not considered for appointment and the workman is not entitled to any relief.

The party no. 1 in the written statement has also taken the specific plea that the reference is not maintainable in law, as the workman had filed original application no. 49/94 before the Central Administrative Tribunal, Bombay on 20-12-1993, asking for the same relief and the reference was made, when the earlier dispute was sub-judiced before an appropriate forum and the workman cannot invoke the jurisdiction of both the courts and on that count, the reference is not maintainable. The further case of party no. 1 is that there is no case for the workman and he did not put continuous employment with them and his past services cannot be considered and the same was rightly rejected on the basis of the circular dated 14-03-1991 and the subsequent employment does not bestow any right to the workman, since the same was purely casual employment, considering the work available with them and since there was non availability of work with them, the services of the workman was rightly discontinued w.e.f. 15-10-1993 and the reference being baseless and vexatious, the same is liable to be answered in the negative and the reference is to be dismissed.

4. In support of their respective claims, both the parties have led oral evidence, besides placing reliance on documentary evidence. The workman has examined himself as a witness to prove his case, whereas, one Anand Indrasingh Pardesi has been examined as a witness on behalf of the party no. 1. The witnesses in their examination-in-chief, which are on affidavit have reiterated the facts mentioned in the statement of claim and written statement respectively.

However, in the cross-examination, the workman has admitted that he has not filed any document to show that he was sponsored by the employment exchange and he was served with one month's notice and he was, removed and discontinued, because the work was not available as mentioned in his application dated 29-01-1993, Ext. W-6 and he was engaged as a casual labourer from 01-01-1984 and he does not know if it was a permanent vacancy and post, on which, he was engaged in the year 1984.

5. The witness for the party no.1 in his cross-examination has stated that the contents of his affidavit are based on his knowledge from official records and he does not have any personal knowledge about the engagement and disengagement of the workman and the document, Ext. W-4 shows that the workman worked for 490 days intermittently for the period from 04-01-1984 to 01-05-1985 and the contents of Ext. W-4 are correct and the workman was engaged as casual driver w.e.f. 14-04-1991 and when the said worked ceased, he was discontinued w.e.f. 15-10-1993 and no retrenchment compensation was given to the workman and there was notification dated 25-08-1993 by the Telecom District Engineer, Buldhana, regarding recruitment to the cadre of motor driver.

6. At the time of argument, it was submitted by the learned advocate for the 'workman that the name of the workman was sponsored by the employment exchange and in pursuance of the same, he was engaged as a casual labourer on daily wages of Rs. 10 per day w.e.f. 04-01-1984 and his services were discontinued w.e.f. 01-06-1985 orally and the workman had worked for 355 days and 135 days in the year 1984 and 1985 respectively and he had worked for a total period of 490 days prior to his discontinuance and the workman again orally employed as a casual motor driver w.e.f. 13-04-1991 with the pay scale of Rs. 1830 per month and as per the departmental circulars, the workman was entitled to be regularized by granting temporary status as casual labourer, because he was employed before the cut-off date, i.e. 30-03-1985 and had completed 240 days during the calendar year 1984-85 and party no. 1 had power to condone the break in service and as such, party no. 1 ought to have condoned the break of service of the workman from 01-06-1984 to 13-04-1991, during the period for which he was not employed and the case of the workman was recommended by the Telecom District Manager, Buldhana to the General Manager (T) Vidharbha Area, Nagpur to grant him temporary status, but nothing was done on such recommendations and instead, the workman was retrenched from services w.e.f. 15-10-1993, after giving of one month's notice on 14-09-1993 and the Telecom District Engineer, Buldhana on 25-08-1993 issued a notification for recruitment to the cadre of Motor drivers and from the said notification, it was clear that two posts of motor driver were vacant, so the retrenchment of the workman for no work was totally false and smacked of mala-fides and as such, the order of retrenchment is to be quashed and set aside and the workman is entitled to get temporary status and regularisation of his services in the vacant sanctioned post w.e.f. 25-08-1993 and all consequential benefits.

7. Per contra, it was submitted by the learned advocate for the party no. 1 that the workman worked as casual labourer from 1984 to 1985 and the said fact is not relevant for the present term of reference and after 1985, the workman in the year 1989, approached party no.1 with a request to engage him in some work as casual labourer

and he also informed of his having valid driving licence and the department considered his request and found that the workman can be given the casual work of motor driving, when available and therefore, the validity of retrenchment of the workman with effect from 14-09-2003 is the main issue and in order to challenge the retrenchment, the workman has to satisfy that he had completed 240 days of service and the burden has not been discharged by the workman by producing documents and it is clear that the workman was not holding any post and his engagement was not in terms of any notification or in response to any circular and therefore, no right whatsoever can be spelt out for calling the impugned retrenchment as illegal and the notification dated 25-08-1993 was to fill up the vacant post of driver and therefore, it was not possible for the party no. 1 to continue the engagement of casual labourer and the discontinuance of the workman from 14-09-1993 was an administrative necessity and the discontinuance of the workman is legal and justified and the workman is not entitled to any relief.

8. On perusal of the materials on record including the schedule of reference, it is found that there are two aspects of the schedule of reference, one granting of temporary status to the workman as casual labourer and the other regarding the legality of the retrenchment of the workman from services from 14-09-1993. It is also found from record that there is no dispute that the workman worked as casual labourer from 04-01-1984 to 01-06-1985 and he was disengaged thereafter for want of work in the subdivision. It is also not disputed that after obtaining license for driving motor vehicles, on 09-05-1989, the workman approached the party no. 1 to give him the job of casual motor driver. The workman has claimed that according to the departmental circulars, he is entitled to be regularized as casual labourer by granting temporary status, as he was employed before the cutoff date i.e. 30-03-1985 and he had completed 240 days of work during 1984-1985. However, neither in the statement of claim nor in his evidence, the workman has mentioned the number or date of circulars according to which, he was entitled for temporary status. The workman has also not produced any circular to show that under the said circular, he was entitled for temporary status and regularisation as casual labourer. The burden to prove that he is entitled to get temporary status and for regularisation as casual labourer is on the workman. As he failed to produce the circular or any other evidence in support of his claim of entitlement to get temporary status and regularisation as casual labourer, it is not possible to give any relief to the workman in that respect.

9. So far the other question regarding the retrenchment of the workman from 15-10-1993 (not from 14-09-1993 as mentioned in the schedule of reference) is concerned, from the materials on record, it is found that the engagement of the workman as a casual driver was w.e.f. 14-04-1991 to 14-10-1993 and his services were discontinued w.e.f. 15-10-1993. It is also found from record that on 14-09-1993, the party no. 1 gave a written one month's notice to the workman intimating him, that his

services would not be required w.e.f. 15-10-1993, due to cessation of the work of casual driver. It is also clear from the evidence on record including the admission of the witnesses examined on behalf of party no. 1 in his affidavit and so also in his cross-examination that the workman had completed 240 days of work in the preceding 12 calendar months of the date of termination i.e. 15-10-1993. It is also clear from the record that though one month's notice of retrenchment was given to the workman by party no. 1, no retrenchment compensation as required under Section 25-F of the Act was given. So, the retrenchment of the workman from services w.e.f. 15-10-1993 is illegal.

10. The question now remains for consideration is as to- whether the workman is entitled for reinstatement in service. In this regard, I think it proper to mention about the principles enunciated by the Hon'ble Apex Court in the case, between the in-charge officer and another versus Shankar Shetty reported in 2010(8)SCALE-583. In the said decision, Hon'ble Apex Court have held that, "Industrial Disputes Act 1947/ Section 25F /Daily wage / Termination of service in violation of Section 25(F)/ Award of monetary compensation in lieu of reinstatement /Respondent was initially engaged as daily wage by appellants in 1978/His engagement continued for about 7 years intermittently up to 06-09-85/ Respondent raised industrial dispute relating to his retrenchment alleging violation of procedure prescribed in Sec. 25(F) of the Act/Labour Court rejected respondents claim: holding that Section 25(F) of the Act was not attracted since the workman failed to prove that he had worked continuously for 240 days in the calendar year preceding his termination 06-09-85. On appeal, High Court directed reinstatement of Respondent into service holding that termination of respondent was illegal. Whether an order of reinstatement will automatically follow in a case where engagement of a daily wage has been brought to an end in violation of Section 25(F) of the Act-Allowing the appeal- held:

The High Court erred in granting relief of reinstatement to the respondent. The respondent was engaged as daily wage in 1978 and his engagement continued for about 7 year intermittently up to September 6, 1985 i.e. about 25 years back. In a case such as the present one it appears to us the relief of reinstatement cannot be justified and instead monetary compensation would meet the ends of justice. In our considered opinion the compensation of rupees one lakh (Rs. 1,00,000) in lieu of reinstatement shall be appropriate, just and equitable".

11. The principles enunciated by the Hon'ble Apex Court as mentioned above are squarely applicable to the present case at hand. Applying the said principles, it appears to me that a relief of reinstatement is not justified in this case and instead monetary compensation would meet the ends of justice. In my considered opinion compensation of Rs. 20,000/- (Rupees twenty thousand) in lieu of reinstatement shall be appropriate, just and equitable. Hence it is ordered.

ORDER

The action of the Telecom District Engineer, Buldhana at Khamgaon in not granting temporary status to Shri Praveen Dattatraya Pande, casual labourer is justified. The action of party no. 1 in retrenching the services of the workman w.e.f. 15-10-1993(not w.e.f. 14-09-1993 as mentioned in the schedule of reference) is illegal and unjustified. The workman is entitled to monetary compensation of Rs. 20,000/- in lieu of reinstatement. He is not entitled for any other relief. The party no. 1 is directed to pay the compensation of Rs. 20,000 to the workman within one month from the date of Publication of the award in the official gazette.

J. P. CHAND, Presiding Officer

नई दिल्ली, 14 फरवरी, 2013

का.आ. 581.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स गैस अथारिटी ऑफ इण्डिया लिमिटेड और या उ. प्र. के प्रबंधन के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 23,13,14,15,18, 21, 22,51, 53, 54/ 06 एवम 26/07 को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2013 को प्राप्त हुआ था।

[सं. एल-30012/60, 74, 76, 73, 59, 75, 61/2005-आई आर (एम)एवं सं. एल- 30012/23, 12, 11, 10/2006]

जोहन तोपनो, अवसर सचिव

New Delhi, the 14th February, 2013

S.O. 581.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23,13,14,15,18,21,22,51,53,54/06 and 26/07 of the Central Government Industrial Tribunal-cum- Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Gas Authority of India Limited, (Auraiya U.P.) and their workman, which was received by the Central Government on 30-1-2013.

[No. L-30012/60, 74, 76, 73, 59, 75, 61/2005-IR (M)& No. L-30012/23, 12, 11, 10/2006]

JOHAN TOPNO, Under Secy

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, KANPUR.

Industrial Dispute Case No. 23/06, 13/06, 14/06, 15/06, 18/06, 21/06, 22/06, 26/06, 51/6, 53/06, 54/06

Sri Ram Gopal Singh,

Son of Sri Hardayal Singh,

Village Munsipur, Post Fatehpur Baini,

District Auraiya.

And

The General Manager,

M/s Gas Authority of India Limited,

U.P. Petro Chemical Complex,

Pata Auraiya.

2. Central Government vide notification no.L-30012/60/2005-IRM, dated 21.02.06, L-30012/74/2005-IRM, dated 24.01.06, L-30012/76/2005-IRM, dated 24.01.06, L-30012/73/2005-IRM, dated 24.01.06, L-30012/59/2005-IRM, dated 21.02.06, L-30012/75/2005-IRM, dated 17.02.06, L-30012/61/2005-IRM, dated 28.02.06, L-30012/23/2006-IRM, dated 14.05.07, L-30012/12/2006-IRM, dated 14.07.06, L-30012/11/2006-IRM, dated 14.07.06, L-30012/10/06/IRM dated 14-07-06, has referred the reference or adjudication to this tribunal.

2. These are 11 cases, which have been consolidated vide a judicial order on the prayer of both the parties as the facts are almost similar in all the cases and common question of law is involved. The date of termination is almost the same in all the above cases but it does not make any difference in disposing off the cases all together. Case No. 23 of 2006 Ram Gopal Singh versus Gas Authority of India limited has considered to be the leading case and evidence has been recorded in the said case. Therefore considering the feasibility the facts of this case are being reproduced. There does not appear to be any necessity of reproducing the facts of other cases. Government of India Ministry of Labour has sent the following reference for decision.

3. Whether the action of the management of Gail Pata Auraiya in refusing to employ Sri Ram Gopal Singh with effect from 22-12-2001 is legal and justified? If not to what relief the workman is entitled to?

4. Brief facts are that all the claimants have filed their claim statement individually. As per claim statement there was a proposal from Gol to establish a Petrochemical Plant at Village Pata in District Auraiya which was named as U.P. Petrochemical Pata/Gas Authority of India Limited (in short Gail). the Government of India vide their notification dated 3-2-86 has also provided a provision to the effect that the villagers whose land will be acquired for establishing the above project, a member of such family will be provided with employment under the opposite party apart from payment of compensation for acquiring of their land. This was made effective only after the plant came in operation.

5. It is further alleged that State of U.P. also issued a letter dated 29-02-96 addressed to the Director Land Acquisition, where it was mentioned that a member of such family of land losers will be provided with a job under the opposite party. Similarly there was an order dated 15-6-85 of the State of UP to the same effect. On the basis of letter of Senior Manager of the opposite party as well

as District Magistrate Auraiya, letter dated 11-11-86 and letter of special Secretary Development date 22-11-86, order of the D.M. Dated 24-11-86, report after inquiry was submitted by the Tehsildar which provide that a member of such land loser family will be provided with the job. In relation to the land acquired a case no. 8-10-94 was decided wherein also mentioned that a land loser family will be given employment under the opposite party. There arrived a tripartite settlement between the families of landlosers and the management in the presence of DM Auraiya which took place on 29-6-98 wherein the above position had been agreed upon.

6. As such the opposite party in compliance to the orders of the Government and as per settlement the opposite party provided a job to the land executives and the complainant was also given a job under the Horticulture. The workmen were also given the gate pass by the CISF of the Gail Unit for entry in the premises of Gail Unit. After the appointment when the claimants demanded salary and wages according to the regular employees the management tried to convert these applicants to be the contractor's employees which was agitated by these applicants. The management getting aggrieved did not permit the claimants to enter into the premises on 22-12-2001 by the Security Guard of the premises and terminated their services orally so that the claimant could not raise their legitimate demands. The work with the opposite party was of permanent nature. Thereafter the claimants moved an application before the ALC from where the present reference has been sent to this tribunal for decision. Therefore, they have prayed that the action of the opposite party be declared as illegal and they may be reinstated with the opposite party.

7. The opposite party has filed their reply to the maintainability of the claim petition as well as on merits refuting the claim statement.

8. It is stated that Gail is a public sector enterprise under the adges of Ministry of Petroleum Government of India and registered as a Company. It has set a petro plant Pata District Auraiya, this plant is of a highly sensitive nature. With a view to protect the plant from any insurgent type activities and for the purpose of safety specialized security namely CISF was deployed by the Ministry of Home Affairs Government of India. The entry into the plant premises is regulated and controlled by CISF.

9. It is stated that for setting up of the said plant, inconsonance of the decision of the Government of India, U.P. Government has acquired the land under the Land Acquisition Act. All the land losers including the so called claimants concerned had already been paid compensation by the State Government as per the award of the Special LAO Etawah. Further, the employer had also paid adequate compensation to the home losers for their rehabilitation on the basis recommendation of a Committee. It is stated

that notice of the department of Public Enterprise dated 3-2-86 clearly provides that over manning has to be guarded against and any understanding formal or informal in regard to the offer of employment to one member of every dispossessed family in the project will stand withdrawn. There is no obligation of the employer to provide any employment to any member of such family in consequence of acquisition of the land when the proper compensation has already been paid. There is no provision under said statute to provide job to the land losers. The enterprise being the unit of Government of India, the recruitment is carried out as per the recruitment rules or the policy after notifying the vacancies to the employment exchange etc. The decision taken in the meeting dated 29-6-98 is not binding to provide direct employment to the land losers. Any instruction issued by the State Government is not applicable to Central Public Enterprise like Gail.

10. The so called applicant were never engaged by the Gail, there never existed any relationship of master and servant between the opposite party and so called applicants.

11. It is alleged that they were engaged by a Cooperative called GKVSSL and the said cooperative controlling the so called applicants. Gail has out sourced and contracted out certain activities of peripheral nature to a contractor as a step towards providing in direct employment opportunities to the local populous. The outsource activities includes upkeep and maintenance of horticulture in plant and town Ship. The contractor had engaged some of the land losers to accomplish the aforesaid job. These land losers have been engaged in Dharna agitation demanding employment since long but the situation worsted when the land losers employed through the contractors launched Dharna demanding employment through Gail. The said Samiti is a cooperative society formed by Gail employees and is registered as thrift and credit society. Gail is not, providing any financial support to this society. Gail has no control over the activities of the societies. These land losers continued to resort agitation and on several occasions resorted to violence by attacking the Gail employees and also created a sense of insecurity amongst the employees. On account of continued hostile attitude of the land losers the said society informed that they would no more provide horticulture and forestation service and the said society discontinued the job of upkeep and maintenance awarded to the society with effect from 1-10-01. The attendance of these so called applicant was maintained by the society and the payment was also made by the society. Gail authority has no role to play. No temporary gate passes has ever been issued to the so called applicants by the employer. They were not the workmen directly employed under the opposite party. Therefore question of terminating the services of the so called applicant does not arise.

12. No rejoinder has been filed in the case.

13. Both the parties have adduced oral as well as documentary evidence.

14. Claimant has adduced on Sri RaIKumar who is one of the claimant as W.W.1.

15. Opposite party has adduced MW 1 Sri Kishan Pal Yadav who is Deputy Manager Gail Pata and Sri Vishnu Prasad Panda a senior officer as M.W.2.

16. Opposite party has adduced documentary evidence i.e. photo copy of tax card of the employees of civil department for the year 2001-02 (page no. 11/2-11). Photocopy of Tax Card of the employees of Civil Department / Horticulture for the year 2001/2001 (page no. 11/12-21) , photocopy of attendance register of the employees of Civil Department / Horticulture [page no. 11/22-53], photocopy of attendance register of the employees of civil department for the period from Jan 2001 to November 2001 [page no. 11/54-64].

17. The aforesaid documents have been fully proved and exhibited as Ext. E-1 to EA in oral evidence of the opposite party.

18. I have examined the documents filed by the claimant and inquired from the Auth. Representative for the claimant as to whether there was any such document which may prove the direct relationship of master and servant between the contesting parties. He could not draw my attention towards any such documents. It is contended that Gail is a public sector enterprise under the adges of Ministry of Petroleum Government of India and registered as a Company. It has set a petro plant Pata District Auraiya, this plant is of a highly sensitive nature. With a view to protect the plant from any insurgent type activities and for the purpose of safety specialized security namely CISF was deployed by the Ministry of Home Affairs Government of India. The entry into the plant premises is regulated and controlled by CISF.

19. It is stated that for setting up of the said plant, inconsonance of the decision of the Government of India, U.P. Government has acquired the land under the Land Acquisition Act. All the land losers including the so called claimants concerned had already been paid compensation by the State Government as per the award of the Special LAO Etawah. Further, the employer had also paid adequate compensation to the home losers for their rehabilitation on the basis of recommendation of a Committee. It is stated that notice of the department of Public Enterprise dated 3-2-86 clearly provides that over manning has to be guarded against and any understanding formal or informal in regard to the offer of employment to one member of every dispossessed family in the project will stand withdrawn. There is no obligation of the employer to provide any employment to any member of such family in consequence of acquisition of the land when the proper compensation has already been paid. There is no provision under said statute to provide job to the land losers. The enterprise being the unit of Government of India, the recruitment is carried out as per the recruitment rules or the policy after notifying the vacancies to the employment exchange etc. The decision taken in the meeting dated 29-6-98 is not

binding to provide direct employment to the land losers. Any instruction issued by the State Government is not applicable to Central Public Enterprise like Gail.

20. The so called applicant were never engaged by the Gail, there never existed any relationship of master and servant between the opposite party and so called applicants.

21. It is alleged that they were engaged by a Cooperative called GKVSSL and the said cooperative controlling the so called applicants. Gail has out sourced and contracted out certain activities of peripheral nature to a contractor as a step towards providing in direct employment opportunities to the local populous. The outsource activities includes upkeep and maintenance of horticulture in plant and township. The contractor had engaged some of the land losers to accomplish the aforesaid job. These land losers have been engaged in Dharna agitation demanding employment since long but the situation worsened when the land losers employed through the contractors launched Dharna demanding employment through Gail. The said Samiti is a cooperative society formed by Gail employees and is registered as thrift and credit society. Gail is not providing any financial support to this society. Gail has no control over the activities of the societies. These land losers continued to resort agitation and on several occasions resorted to violence by attacking the Gail employees and also created a sense of insecurity amongst the employees. On account of continued hostile attitude of the land losers the said society informed that they would no more provide horticulture and forestation service and the said society discontinued the job of upkeep and maintenance awarded to the society with effect from 1-10-01. The attendance of these so called applicant was maintained by the society and the payment was also made by the society. Gail authority has no role to play. No temporary gate passes has ever been issued to the so called applicants by the employer. They were not the workmen directly employed under the opposite party.

22. It is a fact that no appointment letter has ever been issued to these applicants, their names have never been sponsored by the employment, and there is no such cogent oral or documentary evidence from which it can be inferred that the salary or the wages were being paid directly by the opposite party to these claimants. W. W. I has admitted in his cross examination that there are no such documents.

23. It is alleged by W.W. I that there was a deduction of EPF from his salary but there is no documentary proof in respect to this saying, even he does not know the EPF number.

24. The opposite party has placed reliance upon a decision of Hon'ble apex Court in the case of MPElectricity Board versus Hari Ram 225 I.L.R page 1- wherein the Hon'ble Apex Court held-in the absence of documentary proof about continuous working of the workman pertaining to a particular period, the initial burden of proof to establish

that the workman had worked continuously for 240 days will rest upon the workman and not upon the management.

25. Likewise the same view has been taken by the Hon'ble Supreme Court of India in the case of Rajasthan State Ganga Nagar Mills limited versus State of Rajasthan and another in 2004 (103) FLR page 102.

26. Therefore in my view the workman has failed to establish that they have continuously worked with the Gail/opposite party under the relationship of master and servant for 240 days in a calendar year. There is no such evidence which may prove the relationship of master and servant between contesting parties.

27. In this case the opposite party has alleged that the Gail employees had formed a thrift and credit society but this society was not under the direct control or supervision of Gail. No payment was ever made to such society by Gail. For a short period the said samiti has taken the work from the so called applicants but when these applicants started dharna and agitation and disrupted the work of the employees then the employees decided to discontinue the operation of the said samiti.

28. The opposite party has also placed reliance upon a full bench of Allahabad High Court in the case of Ravindra Kumar versus District Magistrate Agra in 2005(1) UPLBEC page 118 wherein held - appointment in lieu of acquisition of land - held - Land Acquisition Act nowhere provides giving of service in addition to compensation to the effected person, thus GOs or Circulars are inconsistent with schemes and provisions of the Act.

29. Therefore, the plea of the claimant that their land have been acquired and there was a promise to employ one member of the family of the land losers and they have been given employment in lieu of the land evictees is also not tenable.

30. It is contended by the auth. Representative for the workmen that they are the direct employees of the opposite party and showing them to be the employee of contractor or samiti is a sham contract.

31. They have placed reliance upon a decision Civil Misc. Writ Petition No. 8608 of 1994 Bam Shaker Dixit versus Labor Court -2 U.P. Kanpur and others.

32. I have respectfully gone through the decision. I have considered the facts and circumstances of the present case. In the present case there is no direct or indirect evidence wherein the claimants could claim they have been in direct employment or continuously worked for 240 days or more in a calendar year. The evidence adduced by the claimants on this point is not acceptable. They have failed to establish their claim, hence claim cannot be decided in their favor.

33. Accordingly it is held that the claimant are not entitled for any relief and the reference is therefore, decided against them.

34. Let a copy of this award be placed on the record of each connected case.

Dated : 21-1-2013

RAM PARKASHI, Presiding Officer

नई दिल्ली, 14 फरवरी, 2013

का.आ. 582.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मार्यन फार्वाडिंग कॉर्पोरेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, 2, मुम्बई के पंचाट (संदर्भ संख्या सी.जी.आई.टी. 2/70 आफ 2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-02-2013 को प्राप्त हुआ था।

[सं. एल-31012/03/2004-आई आर (बी-11)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 14th February, 2013

S.O. 582.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/70 of 2005) of the Central Government Industrial Tribunal-cum-Labour Court, 2, Mumbai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Maryn Forwarding Corporation and their workman, which was received by the Central Government on 14-02-2013.

[No. L-31012/03/2004-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : K. B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/70 of 2005

EMPLOYERS IN RELATION TO THE MANAGEMENT OF M/S MARYN FORWARDING CORPORATION

M/s Maryn Forwarding Corporation
C/o Shri Sanjay P. Dhulapkar
104, 1st floor, Bobby Aots
143, L.J. Road
Mahim (W)
Mumbai 400 016

AND

THEIR WORKMEN

Shri Amrutrao Chowdhari
Shankar Colony
A-Block, 564
B-Chawl, Room No. 3
Ulhasnagar
Distt. Thane 421 004.

APPEARANCES:

FOR THE EMPLOYER : Mr. S.P. Dhulapkar,
Advocate.
FOR THE WORKMEN : Mr. T.R. Shirke
Representative.

Mumbai, dated the 30th November 2012.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-31012/3/2004-IR (B-II), dated 04-05-2005 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of M/s. Maryn Forwarding Corporation, Mumbai in terminating the services of Shri Amrutrao Bajirao Chaudhari w.e.f. 01.07.2004 is justified? If not, what relief Shri Amrutrao Bajirao Chaudhari is entitled to?”

2. After receipt of the reference both the parties were served with notices. In response to the notice the second party workman filed his statement of claim at Ex-5. According to him he was employee of the first party. Initially he was employed in the year 1980 by the sister concern of the first party. They were required to work hard for 22 hours a day. In 1982 the workman was made permanent. In the year 1983 Markand Patel had conducted a meeting of the workman and declared that he had taken a decision to close the unit and he sought consent of the workman to close the establishment. All the workmen joined Maharashtra General Kamgar Union/Association of Engineering Workers led by Dr. Datta Samant. The union strongly opposed the closure of the establishment from back door method and also bent upon for 8 hours shift. In 1982 the first party restarted 22 hours day shift and large number of workmen left the company due to harassment and torture by the management. The employer also retrenched 51 workmen in 2003. The said action was arbitrary and without following due process of law. Again in July 2004 the company decided to retrench 56 employees and effected their termination. Union opposed the said termination as it was illegal without due process of law. The employer did not allow 33 employees to resume their duties and they were kept out of employment forcibly including the workman. They approached the management to follow the due process of law. The management then suspended the work and all the workmen were kept out of employment. There were series of meetings which resulted in agreement between parties on 11-8-2004. It was agreed that, the management would follow seniority of employees strictly in case of retrenchment and to allow the remaining employees to resume their duties from 13-8-2004. The workman being the senior most went to resume duty on 13-8-2004. But he was not allowed to resume his duty and

he was told that he would not be -taken on job. The second party workman pointed out through union to the first party that, retrenchment of senior most by retaining juniors is totally illegal and improper. They pointed out that action of the management was arbitrary. However the first party did not consider the request of the second party and illegally terminated services of the second party. Therefore second party has raised industrial dispute. As conciliation failed, as per report of ALC, the Labour Ministry has sent the reference to this Tribunal. The workman prays that, his termination be declared illegal, improper and bad in law and he be reinstated with continuity of service and full back wages.

3. The first party resisted the statement of claim vide its written statement at Ex- 26. According to them the second party was working with the first party as a Supervisor. He was performing the work of supervisory nature. He was not a workman. Therefore the reference is not tenable. According to them M/s. Maryn Forwarding Corporation and M/s. Mac Transport Co. are two independent establishments having separate Board of Directors. They are not sister concerns as has been alleged. For all purposes they are totally independent. The first party is unaware that, the second party was employed in 1980 by M/s. Mac Transport Co. and he was made permanent. They also denied about the meeting conducted by Makranth Patel in 1983. In 1988 first party has taken over M/s. Lift and Swift and absorbed their 185 workers. In 1996-97 the company started experiencing downward trend in the business volume. The situation was aggravated further on account of shifting of some of the work of Bombay Port to Nhava Sheva Port. On account of reduction of work there was substantial fall in the business of the company. Due to poor financial condition they could not offer VRS Scheme or statutory retrenchment compensation to the workers. Company was completely sick and unhealthy in terms of finance. The company had discussions with the union representatives of MbPT and settlement was arrived at. As per the settlement the permanent workers on muster roll were listed category wise to decide surplus workers and to decide about the workers to be retained. It was agreed that seniority list reflecting the date of joining and also date of birth of all the employees were listed. List was prepared and finalised by the union itself. The union also gave list of workers and supervisors whose services were to be terminated as they are rendered surplus. The union has also given list of employees to be retained on the basis of seniority reckoning and also the age and service in the current category. The lists were displayed on the notice board of the company. None of the employees whose names were on the list raised objection for being included in the respective lists. The lists were prepared as per the negotiations and agreement with the union. The second party was member of the union and the settlement is

binding on the second party. The claim of the second party is false and his allegations are also false that his services were terminated illegally. According to them the allegation of retrenchment was false as Section 2 (oo) and Section 25 F has no application in the present case as second party is not a 'workman'. The company terminated the services of the second party legally. They have satisfied the conditions prescribed thereunder. Thus they pray that the reference be dismissed with cost.

4. Following are the issues for my determination. I record my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1.	Is second party 'workman'?	Yes
2.	Is action of first party just and proper?	No.
3.	What relief second party is entitled?	As per order below.
4.	What order?	As per order below.

REASONS

Issue no. 1 :—

5. In this respect, it is the case of the first party management that, the second party was working as a Supervisor. He was doing supervisory and managerial duties. Therefore he was not 'workman'. In support of his argument the Ld. adv. for the first party resorted to Bombay High Court ruling in the case of Union Carbide (India) Ltd. V/s. D. Samuel and ors. 1998 II CLR 736 wherein by considering the duty and nature of work, pay scale etc., the Hon'ble Court in that case held that;

“After considering exhaustively the case law on the point and documentary evidence on record, it is held that the respondent falls within the definition of supervisor.”

6. In that case the petitioner was delegated duties of recommending leave, calling for requisition from stores and evaluating the work of employees below him. At the time of promotion he was informed that he was part of the management and was liable to be transferred anywhere in the country. He accepted the same. He participated in various programmes organised by the company for its managerial personnel. He was designated as Supervisor. In the light of all these evidence, the Hon'ble Court in that case held that the respondent therein was not 'workman' within the meaning of Section 2 (s) of the Industrial Disputes Act, 1947. In this respect the Ld. adv. also resorted to Delhi High Court ruling reported in Young Women's Christian Association of India V/s. Smt. Jyotsana Paul 2005 LLR 68 (DEL HC). In that case the respondent therein was doing supervisory work. Her recurring responsibilities

included ensuring high standard of discipline amongst staff, sanctioning of leave and controlling absenteeism. In the circumstances, Hon'ble Court declared that, respondent was not 'workman' within the meaning of Section 2 (s) of the I.D. Act.

7. In this respect I would like to point out that nomenclature or designation of the employee is not important to find out whether he is a workman or not. On the other hand nature of work he is performing is important factor in determining whether the employee is workman or not. Ratio to that effect is laid down by Hon'ble Apex Court in S.K. Maini V/s. M/s. Carona Sahu Co. Ltd. AIR 1994 SC. 1824 wherein the Hon'ble Court held that, there is distinction in what an employee is engaged to do and what he does. In the case at hand the second party has contended in his affidavit at Ex-33 that, he was employed on 20-5-1980. He was required to report for duty at 8.00 a.m. in the morning. He was allotted work by either loaded container, booking in-charge or empty container booking in-charge. One Mr. Prakash was in-charge of loaded container whereas Mr. Poojary was in-charge of empty container. He used to get list of containers in advance. He used to tally sheets and challan book. He was required to go to the destiny/points as per the directions of above in-charge to discharge his duty. After verifying container the same used to be loaded on the trucks of the company. He used to check the seal of the containers and number of containers. All these details were filled up in the log sheet and given to the driver. He was required to prepare tally sheets and fill up all information as provided in the tally sheets. Entire work that he was required to discharge was purely of clerical nature. These averments in his affidavit Ex-33 are not challenged or denied. Therefore the mere designation as Supervisor is not sufficient to show that the second party was not workman. From the contents in his affidavit, it is revealed that he was doing the work of clerical nature and not as a managerial or supervisory. In the light of above observation of Apex Court and the evidence on record, I hold that though designation of the second party was shown as supervisor, he was doing work of clerical nature. Therefore I hold that the second party was a workman within the meaning of sec. 2 (s) of I.D. Act. Thus, I decide the issue no. 1 in the affirmative.

Issues nos. 2 & 3 :—

8. In this respect according to the second party workman, he is the senior most amongst all the workmen. Therefore while effecting retrenchment the juniors ought to have retrenched first. According to him, he being senior most ought to have retrenched last as per rule 'first come last go'. On the point the first party has not disputed that the second party workman joined the service in June 1980. They have also not disputed the fact that the workman was one of the senior most employees of the company. In circumstances as per the settled rule: first come last go,

retrenchment was required to be effected and the juniors ought to have retrenched first. In this respect it was submitted on behalf of the first party that the list of employees to be retrenched was submitted to them by the union and they have retrenched the employees as per the list submitted by the union. According to them the name of the workman was in the list of employees to be retrenched, sent by the union. According to them there was settlement with the union. It is further submitted that as the workman is member of the same union, he cannot challenge the retrenchment effected as per the direction of the union. In this respect I would like to point out that as per clause 2 of the agreement Ex-44, the parties have accepted the principle 'first come last go' and accordingly the list of workers found surplus to be retrenched category wise was annexed as Annexure-B. However Annexure-B does not bear signature of the office bearers of the Union. On the other hand list of surplus worker is given in Annexure-B and in Annexure-C list of workers retained is given. It also does not bear signature of any office bearer of the Union. From both these lists apparently it is seen that, the workman was senior most as he joined in June 1980 and all others joined thereafter. The workman being senior most as per the accepted principle first come last go, his name ought not to have been reflected in the list of employees to be retained. As both the lists does not bear signature of any office bearer of the union, it cannot be said that these lists were sent by the union to the company to retrench these employees and to retain the others especially as seniority rule is not reflected in these lists. In short, the version of the first party is not acceptable that the workman was retrenched as per the list submitted to them by the union. The union is also not expected to give go by to the principle 'first come last go'. There is no evidence on record to show that these lists were sent by the union recommending the name of the workman to retrench before the other employees junior to him. In this back drop I come to the conclusion that the workman being senior most, his retrenchment earlier to his junior was illegal and bad in law.

9. In this respect the Ld. Adv. for the first party has submitted that in 2008 the functioning of first party was closed. At present the company is not at all functioning. Therefore there is no point directing reinstatement. Looking into the facts and circumstances of the case and as the first party company is closed four years after retrenchment of the second party workman. No doubt the workman had lost wages of 4 years. As unit is closed directing reinstatement of the workman is of no use. In the circumstances, to meet the ends of justice, I think it proper to direct the first party to pay compensation to the second party workman to the tune of Rs. 1,00,000. Accordingly I decide the issue no. 2 in the negative and issue no. 3 in the affirmative that workman is entitled to the relief by way of compensation. Thus I proceed to pass the following order.

ORDER

- (1) The reference is partly allowed with no order as to cost.
- (2) The retrenchment of workman is declared as illegal and unjustified.
- (3) In-stead of reinstatement the first party is directed to pay compensation to the workman to the tune of Rs. 1,00,000 for his illegal retrenchment.

Date : 30-11-2012

K. B. KATAKE, Presiding Officer

नई दिल्ली, 14 फरवरी, 2013

का.आ. 583.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 53/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-02-2013 को प्राप्त हुआ था।

[सं. एल-17012/15/94-आई आर (बी-II)]
शीश राम, अनुभाग अधिकारी

New Delhi, the 14th February, 2013

S.O. 583.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 53/94) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of LIC of India and their workman, which was received by the Central Government on 14-02-2013.

[No. L-17012/15/94-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL/CUM LABOUR COURT, KANPUR

Industrial Dispute No. 53 of 94

Between

Sri S C Dikshit,
President Luknow Mandal Insurance
Employees Association,
2nd Floor 30 Hazratganj,
Lucknow

And

Divisional Manager,
LIC of India,
30, Hazratganj,
Lucknow

AWARD

1. Central Government, MoL, vide notification No.L-17012/15/94/IR B-II dated 13-06-94 has referred the following dispute for adjudication.

Whether the action of the management of Life Insurance Corporation of India, Lucknow, in imposing the penalty of reduction of salary to the minimum in the time scale on Sri Harsh Singh Rawat Assistant vide their order dated 23-04-83 is justified? If not what relief is the said workman entitled to?

Brief facts of the case are as under.

4. In the instant case this tribunal has already recorded its findings vide award dated 02-01-97, which was challenged by the opposite party before the Hon'ble High Court.

5. The Hon'ble High Court vide order dated 15-07-08 has remanded the case, holding that the findings are not clear cut findings and the tribunal shall decide the dispute afresh. What happen in this case, the then learned Presiding Officer in its award has held that thus on one hand there had been defective evidence of the management whereas on the other hand there had been evasive reply by the concerned workman. In between the two in my opinion the evidence of the management was of much better quality. Hence the enquiry officer had rightly arrived at the conclusion against the concerned workman in accepting the evidence of management. At this point the Hon'ble High Court has found that the findings of the tribunal is not specific and directed that the case be decided afresh.

6. In this case one Pratap Singh Megi has got his life insured vide policy no 28128587 which commenced from 01-07-75. In this policy his wife Mathuli Devi was the nominee. Pratap Singh Policy holder died on 01-05-77m hence his heirs claimed for the amount of policy for which his life was insured. During that course it was found that premium for July 76 was not paid. Hence the heirs of the deceased produced one certificate dated 08-10-77 to show that premium for the month July 76 was paid on 11-10-76. Similarly another certificate dated 25-2-78 was produced to show that premium for this month was paid on 30-07-76. Finding inherent conflicts in the two receipts showing payments of the premium in July 76, the matter was investigated. During this period the concerned workman H. S. Rawat was posted as Assistant as Branch Office Almorah. During the investigation it was found that actually no premium was paid by the deceased for the month of July 76 and two receipts mentioned above were prepared by the concerned workman for giving undue benefit to the heir of the deceased in getting their money under the said policy. Hence the charge sheet dated 18-02-81 was issued to the concerned workman levelling the following charges.

7. That you prepared and got issued a certificate dated 18-2-77 under the said policy on the life of Sri Pratap Singh Negi certifying that the premium due in July 1976 stood paid on 11-10-76 without verifying the facts of payment.

8. That you also prepared and got issued another certificate dated 25-02-78 under the said policy certifying the same premium during July 1976 having been paid on 30-07-76 again actually verifying the facts that the premium was paid or not.

9. The concerned workman has submitted his reply on 2-07-81, which was not found satisfactory. Hence U.C. Saxena was appointed as enquiry officer who has completed his inquiry and submitted the report of inquiry before the disciplinary authority. On considering the report of the inquiry office the disciplinary authority has awarded the punishment as referred to in the reference order.

10. In the claim statement the fairness and propriety of the inquiry report was questioned. Apart from this it was denied that these two receipts were prepared by him.

11. In the written statement the opposite party has maintained that the inquiry was fairly and properly held and the concerned workman was given full opportunity of his defense and they have not violated any provision of natural justice. It was also stated that it was the concerned workman who had prepared these two receipts or certificates in order to shower undue benefit upon the heirs of the deceased. Hence the claimant is not entitled for any relief.

12. Hence the following preliminary issue was framed —

13. Whether the domestic enquiry conducted by the management was not fair and proper ?

14. The management has filed the copy of the entire record relating to domestic inquiry which was produced before the inquiry officer including two forged certificates allegedly issued by the concerned workman. Bhupender Singh Negi is the complainant of this case beside B.C. Joshi is an Assistant, DN Opreti is the ABM (A), he had fully supported the version of the management. In rebuttal there was evidence of the concerned workman Sri Rawat.

15. In view of the above, I have given my anxious considerations to the facts and circumstances of the case and the evidence brought on the record of the inquiry. Although it is legally correct that Industrial tribunal cannot sit over the findings of the inquiry officer as an appellate authority, but at the same time it is equally correct to say that the Tribunal has got an ample power to consider the fact as to whether or not inquiry was held validly or not.

16. In the instant case after examining the evidence of the workman the tribunal do not find any kind of illegality committed by the inquiry officer during the conduct of the inquiry against the Workman. No allegations have been levelled against the inquiry officer by the delinquent employee.

17. The inquiry officer after appreciating the whole evidence available on the record of inquiry has recorded a rational finding which was concurred by the disciplinary authority and the workman was awarded the punishment in question.

18. Even before this tribunal the workman has not levelled any allegation either against the inquiry officer or against the disciplinary authority. Therefore, under these set of circumstances of the case one and only one interference that can be drawn that even according to the own admission of the workman there had been no illegality in the conduct of disciplinary action against him.

19. It is pertinent to mention here that the workman had given an evasive reply against the allegations levelled against him. This will construe that the allegations levelled against him is admitted to him. If it was not so why he has not clearly replied the allegations either in negative or positive and if it is not so in his evidence, then the evidence of the management is reliable and can be very well accepted at a piece of evidence against the workman which proves the charges of his own evidence.

20. Therefore considering the observation of the Hon'ble High Court it is held that since the workman has not given clear cut evidence in support of his defense either before the inquiry officer or before this tribunal though he was given full opportunity after the remand of the case.

21. Considering the overall aspect of the matter, it is concluded that the charges levelled against the workman fully stands proved from his on action and conduct as well as management has also proved the charge against him.

22. Therefore, the punishment imposed upon the workman does not warrant any kind of interference at the hands of the tribunal.

23. Therefore, it is concluded that the action of the management in imposing the penalty vide their order dated 23-04-83 is justified and consequently the workman is not entitled for any relief pursuant to the present reference order.

24. Accordingly reference is answered against the workman and in favour of the management.

Date : 1-2-2013

RAM PARKASH, Presiding Officer

नई दिल्ली, 15 फरवरी, 2013

का.आ. 584.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैनेजमेंट आफ कान्टोनमेंट बोर्ड, शिलांग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, गोहाटी के पंचाट (संदर्भ संख्या 09/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-02-2013 को प्राप्त हुआ था।

[सं. एल-13011/01/2007-आई आर (डी.यू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 15th February, 2013

S.O. 584.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 09/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Management of Cantonment Board, Shillong and their workman, which was received by the Central Government on 08-02-2013.

[No. L-13011/01/2007-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, GUWAHATI,
ASSAM**

Present : Mr. L. C. DEY, M.A., LL.B.
Presiding Officer,
CGIT-cum-Labour Court, Guwahati

Ref. Case No. 09 of 2007

In the matter of an Industrial Dispute between :—

The Management of Cantonment Board,
Shillong, Meghalaya.

-Vrs-

Their Workmen Shri G. Sharma and 2 Ors.

APPEARANCES

Management representatives : Mr. D. Kalita,
Mr. J. K. Kar

Workmen representative. : Mr. R.G. Pradhan

Date of Award: 21-01-2013

AWARD

1. This reference case is arising out of Notification issued vide Memo No. L-13011/1/2007-IR (DU) dated 16-8-07 issued by the Ministry of Labour, Government of

India, to adjudicate the issue as described in the Schedule below :

SCHEDULE

“Whether the demand of the Shillong Cantonment Board Employees Union for the revision of Pay Scale of Sri Ghana Shyam Sharma, Sri L.B. Waiva and Sri Tarlok Singh at par with the similarly placed employees of the State Government of Meghalaya, is legal and justified, if so to what relief the workmen are entitled to and from which dates ?”

2. On perusal of the record it appears that the workmen namely Sri Ghana Shyam Sharma @ Ghanashyam K. Joshi and L.B. Waiva were appointed as Mali under the Cantonment Board, Shillong vide their letter No. 3-27/2/X/C dated 16-9-72 and No. 3-27/5/142/C dated 21-12-78 and both of them were promoted to the Post of Fitter vide letter No. 91-1/41/C dated 15-9-1980 and Office Order No. 223 dated 11-2-1992 respectively. The workman Sri Tarlok Singh was appointed as Safaiwala under Cantonment Board, Shillong vide order No. 179(A) dated 29-7-1970 and he was subsequently appointed as Fitter with effect from 5-4-94 vide Office Order No. 54 dated 5-4-94, and retired on superannuation on 28-8-2007. The above workmen had been performing their duties as Fitter and they were examined by the GE, Shillong and accordingly they have passed the Trade Test examination. As per the Memorandum of settlement of 1963 the Pay and Allowances of the Cantonment Board's employees has been equated with those of similar categories of employees of the State in which the Cantonment Board is situated.

3. According to the workmen the Post of Fitter (Water supply) of Cantonment Board, Shillong has been equated with the Fitter, Class-II of PWD, Govt. of Meghalaya, whereas it should have been equated with the Post of Fitter (Water Works) of the State Government, Grade-I since the workmen have acquired the requisite qualification for the Post of Grade-I, Fitter and their pay should have been fixed in the Scale of Grade-I, Fitter of the State Government i.e. Rs. 1050-25-1175-EB-30-1365-35-1735 and after revision of the Scale of 3100-70-3520-EB-80-4160-90-5060 which the workmen were entitled to. But the Management, Cantonment Board, Shillong arbitrarily decided and equated the Pay Scale of Fitter (Water Works) of the Cantonment Board at par with the Clause-18 of the Pay revision Schedule 1997 instead of Pay Revision Schedule Clause 16. In this connection, the representation made before the Management which did not pay heed to it rather the Cantonment Board had wrongly processed the case of the Fitter as it is seen from the letter No. 362629/LC/xx/Fitter/TY dated 26-6-2003 issued by the Principal Director, DE, Ministry of Defence, E.C., Kolkata wherein it was refused to accept the proposal for changing the equation of Fitter of Cantonment Board, Shillong from equations with Fitters of PWD to the proposed one with

the Plumber of PHE. Thus the wrong equation or interpretation of the equivalent post of Cantonment Board with the State Government as provided in the Memorandum of Settlement has caused irreparable loss to the Fitters of the Cantonment Board. As the Fitter (Water Supply) of the Cantonment Board is performing the same duty that of the Fitter (Water Works) of State Government so the wrong equation of the Post and the disparity in the scale of Fitter (water supply) with that of Fitter (Water Works) of State Government is not justified since they are discharging the same duty. Hence, the workmen prayed for passing order directing the Management Cantonment Board, Shillong to approach the higher authority for equation of the Post of Fitter (Water Supply) with similarly placed post of Fitter (Water works) and the State Government of Meghalaya or give relief by directing the Management to equate the Post of Fitter (Water Supply) with the post of Fitter (Water works) with the State Government.

4. The Cantonment Board, Shillong, Meghalaya, (herein after called the Management) contested the proceeding by filing written statement refuting the claim of the workmen. In their pleadings the Management of the Cantonment Board, Shillong admitted that Sri Ghanashyam Sarma @ Ghanashyam K. Joshi was initially appointed as Mali and subsequently promoted and appointed as Fitter vide their office letter No. 91-1/41/C dated 15-9-1980. Sri L.B. Waiva was initially appointed as Mali and subsequently promoted to the Post of Fitter vide their Order No. 223 dated 11-2-1992. The Management also appointed Sri Tirlok Singh as Safaiwala and subsequently appointed him as a fitter with effect from 5-4-1994 vide their Office Order No. 54 dated 5-4-94 and the said workman retired on superannuation on 28-8-2007. It is stated by the Management that the aforesaid 3 workmen had been performing their duties as Fitter and they were examined by the GE, Shillong as to whether they knew the job of Fitter, and the said three fitters Post, Trade Test conducted by the Engineer of the GE, Shillong. It is also mentioned in their W.S. that as per the memorandum of settlement the pay and allowances of the Cantonment Firm's service were equated with those of the counter part of the State Government establishment of the State in which the Cantonment Board is situated. However the Post of Fitter of the Cantonment Board was equated with that of the Class-II Post of Fitter of the PWD of the State Government of Meghalaya as per memorandum of settlement. Although the Fitter (the workman) demanded the pay scale of Grade-I Fitter of the State Government but the same was not accepted by the Board since the Fitter do not fulfill the minimum qualification laid down for the Post by the State Government of Meghalaya, PWD in the similar category of staff employed by them. The Board/Management resolved to ask the Fitters to acquire the requisite qualification within a period of 3 years. The

further contention of the Management is that as per the Dy. CE, PWD, Government of Meghalaya, though there exist no Grade-I and Grade-II of the Pipe Line Fitter, they have the Post of Water Works plumber of the same pay scale of Rs. 1050-25-1175-EB-30-1365-35-1735/- and after revision Rs. 2650-50-2950-EB-60-3430-70-4130/-. The Fitters of the Management Board are getting revised pay scale of Grade-II Fitters and the question of giving the pay and allowance of Grade-I Fitters does not arise since the same has not been accepted by the Board and sanctioned by the competent authority as such, the fitters are paid whatever pay scale are applicable to them as per memorandum of settlement. The Management averred that the Fitters of their Office requested to change their designation and pay scale and accordingly the matter was placed before the Management Board which vide its resolution No. 11 dated 15-12-2004 decided that the Fitters of the Board do not fulfill the minimum qualification laid down for the post by the State Government of Meghalaya, PWD and hence, the proposal could not be accepted, and the Fitters were asked to acquire the requisite qualification within a period of 3 years. The Management denied the allegation that the case was not processed for changing the designation and revision of pay scale of the Fitter as per the resolution No. CBR 17 dated 5-5-1997, No.3 dated 7-7-1999 and No.18 dated 29-4-2002. According to the Management the case was forwarded to the competent authority and the State Authority turned down the proposal since the Fitters do not possess the requisite qualification for the Post as such, the Board rightly rejected the proposal and the Board has given the Fitters the scope to acquire the requisite qualification within the period of 3 years so that these Post can be upgraded as per letter No. SHG/I/ Revision of Pay-Fitter/309 dated 14-2-2005.

5. The Management Cantonment Board by filing the additional written statement contended that the Post of Fitter is a direct recruitment post and the departmental candidate can also be allowed to compete with the nominee of the employment exchange provided they fulfill all the conditions prescribed for the post. Age relaxation was extended to such candidates on the analogy of Department of Personnel Administrative reform. It is also stated that the memorandum of settlement arrived at between the employees and All India Cantonment Board Employees Federation that the cantonment board employees be broadly equated with those of similar categories of the State Government at the district level and equation be made as indicated in the settlement and also that the various matter be settled as recorded in the memorandum of settlement. As per para-4, qualification for the equated post as prescribed by the State Government shall be admissible and the post of Fitter in Shillong Cantonment Board has been equated with fitter II class, PWD department, Government of Meghalaya. The qualification prescribed by the State Government was

furnished by the PWD and accordingly the pay and allowances of the Cantonment Board employees had been equated as per memorandum of settlement but the promotion or the recruitment shall be governed under the Cantonment Fund Servant Rules, 1937. The management again averred that the memorandum of settlement arrived between the employees and the workmen cannot be debarred on the ground of trade test because the provision contains the qualification as well as the equation of post; and the water fitter of Shillong Cantonment Board has been equated with that of PWD and hence, the change in equation with the PHE Department is not permissible under the memorandum of settlement. The fitter have applied for revision of pay scale and the proposal for the same was forwarded by the Board to the competent authority which decided that they cannot claim any other scale than what is provided in the memorandum of settlement and this was informed to the fitter concerned. Thereafter the workmen requested for change of designation as well as the pay scale which was also turned down on the ground of provision contained in the memorandum of settlement and the qualification prescribed for the post of plumber and it was resolved that fitter do not fulfill the minimum qualification and hence, they were asked to acquire the requisite qualification within a period of three years.

6. In order to ensure transparency and justice both the parties were allowed to adduce evidence and to submit documents in support of their respective claims. Accordingly the workmen examined 2 witnesses and exhibited the relevant documents. The Management also submitted the evidence-on-Affidavit of one Sri J.V. Singh but he could not be cross-examined due to non-appearance of the said witness in spite of allowing the Management sufficient opportunities for producing the said witness and ultimately the Management did not appear before this Tribunal and thereafter the hearing of both the parties has been closed and the case has been proceeded ex-parte. Accordingly the argument from the workmen side was heard.

7. Decision and reasons thereof :

I have perused the entire case record along with the evidence adduced by both the parties and the documents available on record. The vital and material issue raised in this Reference is whether the demand for revision of pay scale of the Fitter of Shillong Cantonment Board Employees namely Sri Ghana Shyam Sarma @ Ghanashyam Khanal Joshi, Sri L.B. Waiva and Sri Tarlok Singh at par with the similar pay scale granted to the employees of the State of Meghalaya by the Government of Meghalaya, is legal and justified.

It is an admitted fact as it reveals from the pleadings of both the sides that the workmen of the Shillong Cantonment Board namely Ghana Shyam Sarma @

Ghanashyam Khanal Joshi, Sri L.B. Waiva were originally appointed as Mali & Sri Trlok Singh was appointed as Safaiwala by the Cantonment Board and subsequently they were appointed as Fitter and they performed the duty of Fitter (Water works) from the date of their respective promotion. The workman witness No. 1 Sri Ghanashyam K. Joshi @ Ghanashyam Sarma has stated that he was appointed as labour (Mali) in 1972 in the scale of Rs. 80-130 p.m. vide Ext.1 and subsequently he was promoted and appointed as Plumber/Fitter. He also mentioned that as per the terms of settlement arrived at between the parties the Pay and Allowances of the Cantonment Board Employees have been broadly equated with those of similar category of employees of State Government but the Post of Fitter (Water Supply) of Cantonment Board, Shillong has been equated with Fitter Class-II of PWD, Government of Meghalaya where as it should have been fixed/equated with the post of Fitter (Water Works) of the State Government as per revision of the Pay of the State Government under 3rd and 4th Pay Commission. Due to wrong interpretation of the Cantonment Board regarding classification or regularization of the Post of Fitter (Water Works) of Cantonment Board as Fitter Class-II of the State Government the workman has been facing heavy financial loss and accordingly he was drawing the pay scale of Fitter, Class-II in the revised pay scale of Rs. 2650-4130 P.M. which would have been under the categories of pay scale of Rs. 3100-5060 P.M. which he entitled to. The workman witness no. 1 contended that as per revision of Schedule, Clause-16 he was legally entitled to the pay scale of Rs. 3100-5060 P.M. but arbitrarily, it was decided and placed on the Clause-18 of the said Pay Revision Schedule, 97 which ought to have been corrected but the authorities did not pay heed to the representations made. In support of his statement the workman witness No.1 has submitted his appointment letter marked as Ext. 1, the letter regarding his promotion and appointment as Fitter marked as Ext. 2, the extract from the Meghalaya Service (Revision of Pay) Rules, 1988. The Meghalaya (R.O.P.) Rules, 1980.

The workman witness No. 2, Sri L.B. Waiba in his evidence in Affidavit mentioned that he was appointed as labour (Mali) in the year 1979 and thereafter he was promoted to the post of Fitter (Water works). He also mentioned that as per memorandum of Settlement concluded in 1963, the pay and allowance of the Cantonment Employees have been equated with those of the similar category of the employees of the State Government, but as per the Schedule of memorandum of settlement, 1963 the Fitter (Water works) of Cantonment Board, Shillong had been equated with Fitter Class-II of the PWD whereas it should have been equated with the Post of Fitter (Water works) of the State Government as per the pay revision of the State Government as per 3rd and 4th Pay Commission. The said witness further

mentioned that from the very inception of the memorandum of settlement the post of Fitter (water works) of Cantonment Board, Shillong had been classified/ categorized as Fitter, Class-II of the PWD of State Government wrongly as the Post of Fitter (water works) of the State Government and accordingly he has been drawing the pay scale of Rs. 2650-4130 p.m which ought to have been under the category of pay scale Rs. 3100-5060 P.M. He also added that as per pay revision, Clause-16 he was legally entitled to the pay scale of Rs. 3100-5060 P.M. but arbitrarily it was decided and placed on the Clause-18 of the State Pay Revision which ought to have been corrected but the authority did not pay heed to the Revision.

The Management, Cantonment Board, Shillong although submitted the evidence-on-Affidavit sworn in by Sri J.B.Singh, in support of their pleading, he could not be cross-examined by the workman due to failure of the management to produce the witness concerned and as such, the testimony of management witness has lost its evidentiary value. Although in his testimony Sri J.B.Singh admitted that appointment of the workman namely Ghanashyam Sharma @ Ghanashyam Khanal Joshi, L.B.Waiba and Sri Tarlok Singh as Fitters, which is a direct recruitment post. He added that the qualification for the equated post as prescribed by the State Government shall be applicable, and the employer and the workman had inter alia agreed that the Pay and Allowances of the Cantonment be broadly equated with those of employees of State Government employees at District level and with the equation be made in the settlement, and accordingly the post of Fitter (water supply) was indirectly equated with the Fitter, Class-II, PWD.

8. From the pleadings of both the sides and the documents filed by both the sides it appears that as per memorandum of settlement (Ext-A) executed between the Cantonment Boards and All India Cantonment Board Employees Federation, have, inter-alia, agreed that the pay and allowance of the Cantonment Board Employees be broadly equated with those of similar categories of the State Government at district level and have further agreed that the equation of the Cantonment Board Employees in each of the various Cantonments be made as indicated in the settlement and that the various matters be settled as recorded in this Memorandum of Settlement. It is agreed upon both the parties that whenever any State Government carries out any General Revision of pay scale of their employees a similar Revision be undertaken by the GOC-in-Chief, the command, on the basis of equated posts mentioned in column 5 of the Schedule.

9. Thus it is clear that the settlement was arrived at between the parties and the same came into force with effect from the 1st day of September, 1967 and the workmen have accepted the terms of settlement and accordingly they are drawing the pay and allowance etc. in terms of the

said settlement, clause-20 of the Settlement, as aforesaid, wherein it has been clearly mentioned that if any question arises relating to the interpretation or implementation of these terms of settlement and also in cases of error or discrepancy the matter shall be referred for decision to such person as the Secretary Ministry of Defence may generally or specially nominate in this behalf and the decision of such nominee shall be final and binding. It will be open to the Secretary, Ministry of Defence, to nominate any officer of the Ministry of Defence. This nominee will, however, give an opportunity to a representative of the Federation on being heard before giving his decision. The Schedule of the Memorandum of Settlement in respect of the Cantonment Board, Shillong in serial No. 16 column-3 and 5 it has been clearly mentioned that the Water Mistry the existing designation of all the Post has been made Fitter (Water Supply) as proposed designation of the Post, and said post of Fitter (Water supply) has been equated with the Post of Fitter, 2nd class, PWD under State Government. As such, the equation of the terms and conditions as well as the equation of the Post as mentioned in Schedule of the Memorandum of Settlement is binding upon the worker Union of Shillong Cantonment and they could take the recourse of Clause-20 of the Memorandum of Settlement. Section 18 (1) of the I.D. Act provided that settlement, as defined in Section 2 (P) of the I.D. Act, arrived at by agreement between the employer and the workmen otherwise then in course of conciliation proceeding shall be binding on the parties to the agreement; and it will remain in operation for the purpose as provided in Section 19 (2) of the Act. In this connection I am inclined to refer the decision of the Bombay High Court in Poona Mazdoor Sabha—vs—G. K. Dhutia reported in 1956 (2) LLJ 319 (Bom) that despite absence of any such specific provision as to the reason of the Industrial Dispute with regard to a matter which is a subject of settlement arrived at u/s 12 in operation, in accordance with Section 19 (2) neither the Industrial Dispute can be raised with regard to the matter covered by the settlement nor can such matter be the subject matter of a conciliation during the period of operation of settlement. Similar view has been taken by Division Bench of Mysore High Court and a Single Judge of Calcutta High Court in Workers and Staff of ASSN of Government Shop Factory---vrs--- State of Mysore (1971) LAB IC 79 and Anglo Indian Jute Mills Company Ltd. -Vrs-5th Industrial Tribunal (1971) LAB IC 58 (Calcutta).

The workmen concerned of the Shillong Cantonment have submitted representation for fulfillment of their demand for change of the nomenclature of the Post of Fitter and salary hike which was turned down by the Management and they remained silent for a long period, as it appears from the record. They also did not raise the issue through their All India Cantonment Board Employees Federation before the Secretary, Ministry of Defence, as

per the terms appended in Clause-20 of the Memorandum of Settlement.

10. In view of my above discussion and having regard to the pleadings and evidence of both the sides as well as the terms and conditions of the Memorandum of Settlement executed between the All India Cantonment Board Employees Federation and the representative of the Employees (the Cantonment Boards in India); and also taking into consideration the decision of the Hon'ble High Court as mentioned above, it can be opined that Reference of the present dispute u/s 10 of I.D. Act, during the period of settlement, is barred by such settlement. Accordingly it is held that the demand of the Shillong Cantonment Board Employees Union for revision of Pay Scale of Sri Ghanasyam Sarma @ Ghanasyam K. Sarma, L.B. Waiba and Sri Tarlok Singh at par with the similarly placed employees with the State Government employees of Meghalaya is not legal and justified and as such, the workmen concerned are not entitled to any relief.

Send the Award to the Government as per procedure.

Given under my hand and seal of this Court on this 21st day of January, 2013.

L. C. DEY, Presiding Officer,

नई दिल्ली, 15 फरवरी, 2013

का.आ. 585.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एडमिनिस्ट्रेटिव ऑफ़िसर, ट्रेडमार्क रजि., वडाला के प्रबंधन के संबंध में उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, 2, मुम्बई के पंचाट (संदर्भ संख्या सी.जी.आई.टी. 2/7 ऑफ 2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05-02-2013 को प्राप्त हुआ था।

[सं. एल-42012/95/2011-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 15th February, 2013

S.O. 585.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/70 of 2012) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Administrative Officer, Trade Mark Registry, Wadala and their workman, which was received by the Central Government on 05-02-2013.

[No. L-42012/95/2011-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI**

PRESENT : K. B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/7 of 2012

EMPLOYERS IN RELATION TO THE MANAGEMENT OF INDIA TRADE MARKS REGISTRY

The Administrative Officer
Government of India Trade Marks Registry
Intellectual Property Bhavan
Near Antop Hill Road
S.M. Road, Antop Hill
Wadala
Mumbai-400 037.

AND

THEIR WORKMAN.

Shri Santosh Bhausaheb Jadhav
Residing at Room no. 1
Jyotirling Nagar
Mankhurd
Mumbai-400 043.

APPEARANCES:

FOR THE EMPLOYER : Mr. Vinod Joshi, Advocate.

FOR THE WORKMAN : In person.

Mumbai dated the 4th January, 2013.

AWARD

The Government of India, Ministry of Labour and Employment by its Order No. L-42012/95/2011-IR (DU), dated 20/31-01-2012 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of Trade Marks Registry, Mumbai in terminating the service of Shri Santosh B. Jadhav, ex-casual labour w.e.f. 31-03-2009 is legal and justified? What relief the workman concerned is entitled to?”

(2) After receipt of the order of reference from Ministry, notices were served on both the parties. In response to the notice, second party workman filed his statement of claim at Ex-4 making out his case. First-party management filed their Affidavit in reply cum written statement at Ex-5. Issues were framed at Ex-7. The matter was fixed for filing documents and list of witnesses by the parties. Meanwhile second party workman filed application dated. 12-12-2012 (Ex-8) requesting to allow him to withdraw the matter with liberty to file fresh matter before appropriate authority. Representative of the first party management endorsed her say and orders were passed on Ex-8 and the application to withdraw the reference was allowed. Thus the order:

ORDER

Reference is dismissed as withdrawn.

No order as to cost.

Date: 4th January, 2013

K. B. KATAKE, Presiding Officer

नई दिल्ली, 15 फरवरी, 2013

का.आ. 586.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ड्राइरेक्टर, पोस्टल सर्विस, जयपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 111/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-02-2013 को प्राप्त हुआ था।

[सं. एल-40012/109/2011-आई आर (डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 15th February, 2013

S.O. 586.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 111/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the Industrial Dispute between the Director, Postal Service, Jaipur and their workman, which was received by the Central Government on 08-02-2013.

[No. L-40012/109/2011-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**IN THE COURT OF SHRI SATNAM SINGH
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
ROOM NO. 33, BLOCK-A GROUND FLOOR,
KARKARDOOMA COURT COMPLEX,
KARKARDOOMA DELHI-110032**

ID No. 42/08

In the matter between :

Dated : 15-01-2013

Shri Chet Ram son of Shri Chhote Lal,
Resident of D-93, Gokul Puri,
New Delhi-110094.

...Workman

Versus

1. The Director,
Postal Service, Jaipur Region,
Jaipur,
Rajasthan

2. The Senior Superintendent,
Railway Mail Services, Jaipur Division,
Jaipur,
Rajasthan.

...Management

AWARD

The Central Government, Ministry of Labour vide Order No. L-40012/109/2011-IR (DU) dated 12-03-2012 has

referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of Senior Superintendent RMS JP Division, Jaipur in terminating the services of workman Shri Chet Ram w.e.f. 07-12-2010 is legal and justified? What relief the workman is entitled to?”

2. Even before the filing of the statement of claim the workman has moved an application for withdrawal of this case. He has submitted in the withdrawal application that he does not want to pursue this case as he has already filed a case at Jaipur branch of CAT. In view of the prayer made by the workman in his application, the reference sent by the Govt. of India to this Tribunal for adjudication stands disposed of and award is passed accordingly.

Dated: 15-01-2013

SATNAM SINGH, Presiding Officer

नई दिल्ली, 15 फरवरी, 2013

का.आ. 587.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रिन्सीपल, केन्द्रीय विद्यालय, फतेहगढ़ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 191/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-02-2013 को प्राप्त हुआ था।

[सं. एल-42012/45/1999-आई आर (डी.यू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 15th February, 2013

S.O. 587.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 191/99) of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Principal Kendriya Vidyalaya, Fatehgarh and their workman, which was received by the Central Government on 08-02-2013.

[No. L-42012/45/1999-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE SRI RAM PARKASH, JJS, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR**

Industrial Dispute No. 191/99

Between-

Sri Kutwal, C/o Sri P.D. Yadav,
Loco Colony Dada Nagar,
Kanpur.

And

The Principal,
Kendriya Vidyalaya,
RCC, Fatehgarh.

AWARD

1. Central Government vide notification no. L-42012/45/99/IR(DU) dated 27-07-99 has referred the following dispute for adjudication to this tribunal-

2. "Whether the action of the management of Kendriya Vidyalaya, Fatehgarh, in terminating the services of Sri Kutwal, with effect from 08.11.95, is legal and justified? If not to what relief the workman is entitled?"

3. Brief facts are-

4. It is claimed by the claimant that he was engaged as Chowkidar / Chaprasi at Rs.25 per day w. e. f. 13th March 1995, on the permanent post of Chowkidar/Chaparasi by the opposite party. He continuously worked till 07-11-95 for over 240 days. He has given the details of his working period in paragraph no. 2 of his claim statement. It is further alleged by the claimant that he was not paid his wages for the working days of the period of Month November 95 for which he moved an application under the provisions of payment of wages Act 1936 and got direction in his favor and recovery proceedings are pending. It is alleged that after completion of 240 days at the time of dispensation of his services by the management, they have neither offered any notice, notice pay or retrenchment compensation, therefore, the dispensation for the services of the claimant is in violation of the provisions of industrial disputes Act as well as is against the principle of natural justice. Therefore, he has prayed for his reinstatement with full back wages and all consequential benefits.

5. Opposite party has also contested the claim of the petitioner by way of refuting the claim of the claimant vehemently. It is stated that it is absolutely wrong to allege that the claimant ~~was~~ ever engaged as Chowkidar or Chaprasi by the management. There ~~never~~ existed any relationship of master and servant between the management and the claimant, it also false to alleged that the opposite party has ever paid any amount as salary to the claimant, it is also alleged that when there remains no relationship of master and servant between the claimant and the management, the question of compliance of the provisions of Industrial Disputes Act does not arise. In the end it has been prayed that the claim of the claimant is not within the scope and ambit of the provisions of Industrial Disputes Act, therefore, the present reference deserves to be rejected holding that claimant is not entitled for any relief against the management.

6. However by a passing way it has been admitted by the opposite party that the claimant was engaged as a casual labor to remove the Malva and furniture etc., of the

dilapidated old building of the School for which he was paid and the furniture etc., to be shifted to the new building. He was being paid R.25/- per day but the payment was made on monthly basis according to the convenience of the claimant. He was engaged under an oral agreement. It has also been denied by the opposite that the claimant had never completed 240 days or more preceding 12 calendar months from the date of his termination.

7. Opposite party has never issued any certificate in the name of the claimant for his working and if there is any such certificate that is forged one.

8. Claimant has filed rejoinder but nothing new has been given, therein. However it has been claimed by the workman that the opposite party has made payment for the month of June 95 through cheque and had also issued a certificate showing the working period 13-3-95 to 09-11-95. In the rejoinder it has also been alleged that the opposite party has breached the provisions of section 25F, G and H of the Act.

9. Both the parties have filed documentary as well as oral evidence in support of their respective claims.

10. Claimant has adduced himself in oral evidence as w.w.1 whereas the opposite party has adduced Sri R P Tripathi, as M.W.1.

11. It has been contended by the opposite party that the claimant was never appointed on the post of Chowkidar or peon. His name does not find place in the attendance register. The relevant documents have been filed in original before the tribunal.

12. It has been alleged that the certificate filed by the claimant is paper no. 51/1, wherein the claimant has added or interpolated the word "Group D" Post, therefore this certificate becomes fictitious document. Opposite party has also filed the report of the hand writing expert as M.W.2 Rakesh Tewari. His evidence appears to be believable.

13. I have also examined the certificate paper no 51/1. There appears to be interpolation wherein the word Group D post appears to have been added, therefore, the claimant cannot take the benefit for regular appointment.

14. I have examined the other documents filed by the claimant like payment details which is paper no.17/1 and payment vouchers.

15. From these documents and oral evidence adduced by both the parties it can be easily inferred that the claimant has been engaged by the opposite party as casual labor and he remained engaged as such with effect from 13-03-95 till 7-11-95. Thus from the above it is concluded that the workman remained in continuous employment for over 240 days preceding 12 calendar months before the date of termination of his services.

16. Therefore, having concluded that the claimant remained in the continuous service of the opposite party for over 240 days preceding 12 calendar months from the date of his termination. As such it was obligatory on the part of the opposite party to have complied with the provisions of section 25 F of Industrial Disputes Act, 1947, by offering him notice or notice pay or retrenchment compensation at the time of terminating the services of the claimant. This having not done, the termination of the services of the claimant cannot be held to be legal and justified.

17. It has been contended by the authorized representative for the workman that such type of workman though under education department but falls in the definition of industry. He has placed reliance upon a leading case the Bangalore Water Supply and Sewerage Board versus A Rajjappa and others Civil No. 753-754(T) of 1975, wherein the subject of Education has also been discussed at length. I would like to reproduce the working at page no. 153 and 154 where the Australian Judge Isaacs, Justice J who substantiate the thesis that education is not merely industry but the mother of Industries. Therefore considering the nature of work and other aspect of the case I hold that the claimant falls in the definition of workman and the management is also covered under the definition of Industry.

18. The tribunal considering all the aspect of the matter has come to the conclusion that it would be in the fitness of the things if the claimant is awarded Rs.25000 as compensation in lieu of his reinstatement in the services of the opposite party.

19. Accordingly it is held that the claimant is entitled for Rs.25000 as Compensation instead of his reinstatement. Therefore, the opposite party is directed to comply with the award within a period of two months from the date of the publication of the award.

20. Reference is answered accordingly.

Date. 23-1-2013

RAM PARKASH, Presiding Officer

नई दिल्ली, 22 फरवरी, 2013

का.आ. 588.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ. सी. आई. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 293/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-02-2013 को प्राप्त हुआ था।

[सं. एल-22012/236/2003-आई आर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 22nd February, 2013

S.O. 588.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 293/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Food Corporation of India and their workman, received by the Central Government on 22-02-2013.

[No. L-22012/236/2003-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/ 293/2003

Date : 06-02-2013

Party No. 1(a)

The District Manager,
Food Corporation of India,
Ajani, Nagpur,
Nagpur - 440015.

Party No. 1(b)

The Senior Regional Manager,
Food Corporation of India,
Mistry Bhawan,
Dinshaw Wacha Road,
Churchgate,
Mumbai - 400020.

Versus

Party No. 2

The Secretary,
Rashtriya Mazdoor Sena,
Hind Nagar Ward No. 2,
Near Boudha Vihar,
Post: Wardha,
Distt, Wardha (M. S.)

AWARD

(Dated: 6th February, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Food Corporation of India and their workman, Shri Diwakar Khushab Waghmare, for adjudication, as per letter No.L-22012/236/2003-IR (CM-II) dated 08-12-2003, with the following schedule :—

“Whether the action of the management of Food Corporation of India, Nagpur (M. S.) in terminating the services of Shri Diwakar Khushab Waghmare, Security Guard w.e.f. 14-03-1999 is legal and Justified? If not, to what relief the concerned workman is entitled?”

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Diwakar, Khushab Waghmare (“the workman” in short), filed the statement of claim and the management of Food Corporation of India (“Party No. 1” in short) filed its written statement.

The case of the workman as presented in the statement of claim is that he was in the employment of Party No. 1 from 14-10-1993 and he was initially engaged through a contractor at Wardha Depot of Party No. 1, as a Security Guard and he was in continuous service without any interruption till 14th March, 1999, when his services were terminated orally by Party No. 1, without following the due procedure of law and he had completed more than 240 days of work in each year and the termination of his services on 14-03-1999 was not in good faith, but in colourable exercise of the rights and powers by the Party No. 1 and while terminating his services, neither one month's notice nor one month's wages in lieu of notice nor retrenchment compensation was given to him as required under section 25-F of the Act and after his illegal termination, fresh hands from the department of home guard and police were engaged by Party No. 1 to extract the duties of Security guards, in violation of the provision of section 25-H of the Act and the work which he was performing is constantly in existence and the same is of a perennial nature and as his termination is illegal and unlawful, he is entitled for reinstatement in service with continuity and full back wages.

The further case of the workman is that in 1993 he was engaged by the Party No. 1 through the contractor for a period of two years, but the contract was made only on papers and after every two years, the Party No. 1 changed the contractor on papers only and the engagement of the so-called contractor did not replace the Security Guards and he was also not disturbed from his services and he was merely shown to be engaged by the contractors, but actually he was working under the direct control and supervision of the Party No. 1 and the contractor had no role to play in the same and the work performed by him was being assigned to him by Party No. 1 and he was a regular employee of Party No. 1 and Party No. 1 was his real employer and not the contractor as alleged and the engagement and change of contractors by Party No. 1 from time to time was sham and only a camouflage to deny his legitimate claim and the contract between Party No. 1 and the contractor was bogus and not genuine and

therefore, his oral termination from services was against the mandatory provisions of the Act and the Central Government decided to abolish the appointment of contract labour as contemplated under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 and issued notification on 01-11-1990 with directions to abolish the contract labour system in the establishment of the Party No. 1 and to give employment to contract labours engaged by the management and therefore, it was the mandatory duty of the Party No. 1 to abolish the contract labour system in all places and management of FCI implemented the notification only at Nagpur and Manmad and absorbed the Security Guards working at Nagpur and Manmad, but at Akola, Amravati, Wardha and Gondia districts, the contract labour system was continued by the management, with an intention to deprive him from the benefits under the labour laws.

It is further pleaded by the workman that his salary was paid by the Party No. 1 and not by the contractor and his daily attendance was also marked by the Asstt. Manager of FCI, Wardha Depot and the Party No. 1 was supervising his work through their officers and he had no relation with the so called contractors engaged by the Party No. 1 and Party No. 1 also supplied the articles, such as, torch, lathi, whistle and uniform etc to him and in view of the long spell of work being carried out by him, he is entitled to be reinstated in service with continuity and full back wages.

3. The Party No. 1 in their written statement have pleaded inter alia that the workman was never in their employment and the workman has not impleaded the contractor, who appointed him, as a Party and the workman was engaged by the contractor as a Security Guard at FCI Depot and the said contractor is a necessary party and in absence of the contractor, the proceeding cannot proceed and the workman was not in their service uninterruptedly till 14th March, 1999 and since the contract of the contractor came to an end, the services of the workman were terminated by the contractor and the original period of contract given to the contractor for providing Security services was up to 1998 and the same was extended as per the terms and conditions till March, 1999 and as the workman was not employed by them, there was no question of following the procedure of termination by them and they were not the employer of the workman and the services of the workman were never utilized by them as employer from 14-10-1993 to 14-03-1999, without any break in service and the workman did not complete 240 days work in a year as alleged and as the workman was engaged by the Security Contractor, there was no relationship of master and servant between them and the workman at any point of time and under section 10 of the Contract Labour (Regularisation and Abolition) Act, they were exempted by the Central Government, so the allegations made by the workman

against them are not true and there was no question of violation of the provisions of 25 (H) of the Act and the work does not constantly exist and the work of providing security guards was given to other Government Agencies like Police Personnel and Home guards and therefore, the workman has no right to claim any relief from them and the work of security is not perennial in nature and as and when their go-downs are filled with food grains, then only, services of the security guards are required and in pursuance of the notification issued by the Central Government abolishing contract labour system, they appointed Home guards and Police personnel as security guards.

The further case of party no. 1 is that for the reliefs as claimed, the workman had filed a writ petition before the Hon'ble High Court, Nagpur Bench bearing W.P. No. 1389/99 and the Hon'ble High Court rejected the said WP and denied the reliefs prayed for and therefore, this Tribunal has no jurisdiction to decide the reference and the decision of the Hon'ble Court operates as res-judicata and they floated tenders for the contract and lowest bidder was awarded the contract and the change of contractor in every two years was not on papers only and they had no say in the appointment of security guards by the security contractor and they had no control over the appointment and service conditions of the workman, who was an employee of the security agency and he was never their employee and the security contractor was the employer of the workman.

The further case of party no. 1 is that the appropriate Government decided to abolish the employment of the contract labour as contemplated under Section 10 of the Contract Labour (Regularisation and Abolition) Act, 1970 and the interpretation of the notification issued on 01-11-1990 put by the workman is not correct and they were exempted from the operation of the Act of 1970 in the year 1989 and the said exemption was withdrawn in the year 1999 and therefore, the security contract given to the contractor was terminated and hence, the services of the workman were terminated by the security contractor and they did not pay the salary to the workman and it was the contractor, who was paying the same to the workman and when the contractor failed to pay the salary to the workman, they paid the amount as per the directions given by the ALC from time to time and the said amount was recovered from the contract's bill and they only used to check the attendance of the security guards to find out as to whether the contractor had made arrangement of the requisite number of security guards, as per their requirement and they did not have the power to terminate any employee appointed by the contractor and they did not provide any article, such as torch, Lathi, whistle and uniform etc to the workman and as such, the workman is not entitled to any relief.

4. Both parties have led oral evidence in support of their respective claims, besides placing reliance on documentary evidence.

The workman in support of his claim has examined himself as a witness. In his evidence, which is on affidavit, the workman has reiterated the facts mentioned in the statement of claim.

In his cross-examination, the workman has admitted that he was engaged by the contractor and the contractor left him to the FCI and FCI had not given any advertisement for the said post and he does not know the name of the contractor and no appointment order was given to him, either by the contractor or the FCI and he has not filed any document to show that salary was paid to him by FCI and he cannot say for how many years he served in FCI and no termination order was issued by FCI and Mr. Bokade terminated him orally and initially, he was getting Rs. 700 as salary, but he cannot say the break-up of his salary, such as basic, DA and other allowances and he has not filed any document to show that he served with FCI from 1993 to 1999. The workman has admitted that he was appointed through Singh Securities Services.

5. Shri Suresh N. Bokade, the witness examined on behalf of the party no. 1 has also reiterated the facts mentioned in the written statement, in his examination-in-chief, which is on affidavit. In his cross-examination, this witness has stated that he has no knowledge if FCI had obtained any license from the competent authority for engagement of contract labours in FCI. The witness has admitted that the workman was working from 1993 in FCI and he was engaged for watch and ward of go-downs and the workman and 12 other workmen were keeping watch on the incoming and outgoing vehicles to and from FCI go-downs and the contractor engaged by FCI to supply contract labourers had the required license for the same but copy of such license was not filed and the process of engagement of contractors was done by the Regional Office of FCI and he has no personal knowledge about the details of the process of engagement of contractors and during the general election to the Parliament, FCI had submitted the names of the workman and 12 others in the list of employees submitted to the collector. This witness has denied the suggestions that the workman and 12 others were appointed by the FCI for watch and ward of the go-downs of FCI at Wardha in 1993 and that the FCI was maintaining the attendance register of the workmen. The witness has further stated that payment of wages to the workman was being done through the contractor as per the minimum wages fixed by the Government and FCI was not making any deduction from the said wages towards PF and ESI and FCI was not maintaining any duty register or salary register for the workman and the concerned Asstt. Manager and Assistants were verifying the supply of labourers by the Contractor and the contractor was

submitting monthly bills for supply of labours and the workman was on duty from 1993 to 1999 in FCI.

6. At the time of argument, it was submitted by the learned advocate for the workman that the workman was engaged by the management of FCI on 14-10-1993 at Wardha depot as a security guard and he worked continuously without any interruption till 14th March, 1999 and his services were terminated orally by the party no. 1, without following the due procedure of law and the workman had completed more than 240 days of work in each year and before termination of the services of the workman, neither one month's notice nor one month's wage in lieu of notice nor retrenchment compensation was given to the workman, as required under Section 25-F of the Act and after termination of the services of the workman, fresh hands were engaged by party no. 1 to extract the duties of security guard, in violation of the provision of Section 25-H of the Act and the work of security guard is perennial in nature, hence the termination of the workman is void and illegal.

It was further submitted by the learned advocate for the workman that the party no. 1 had shown the workman as contract labour, but the so called contract was made only on papers and the workman was actually working under the direct control and supervision of the party no. 1 and he was never a contract labour and such action of the party no. 1 was sham and only a camouflage to deny the legitimate claim of the workman and the so called contract between the management and the contractor was bogus and not genuine and the Central Government by notification dated 01-11-1990 abolished the employment of contract labour and directed to give employment to contract labours engaged by the management and therefore, the management of FCI was bound to abolish the contract labour system and to give employment to the workman.

It was also submitted by the learned advocate for the workman that party no. 1 has admitted the claims made by the workman and has not been able to prove their claim that the workman was a contract labour, by producing cogent evidence in support of the same and as such, the workman is entitled for reinstatement in service with continuity and full back wages.

7. Per contra, it was submitted by the learned advocate for the party no. 1 that the workman was never appointed by party no. 1 and he has engaged by the contractor as a security guard and as such, the concerned contractor is a necessary party and in spite of raising such objection in the written statement, the workman did not implead the contractor as a party and for that the reference is not maintainable. It was further submitted by the learned advocate for the party no. 1 that the workman was engaged by the contractor and as the contract of the contractor came to an end in March, 1999, the services of the workman were terminated by the contractor and as such, there was no question of party no. 1 complying with the due

procedure of termination and there was no relationship of master and servant between the party no. 1 and the workman and the party no. 1 was exempted by the Central Government from the ban imposed for engagement of contract labourers, so contract was given to the security contractor, as per rules, for supply of security guards and due to the notification of the Government for abolition of contract labour system, Home guards and Police personnel were appointed as security guards and party no. 1 has no control over the workman and the security contractor was submitting bills for payment for supply of security guards and the security contractor was paying the wages to the workman. It was further submitted by the learned advocate for the party no. 1 that the workman and some others had approached the Hon'ble High Court, Nagpur Bench in W.P. 1389 of 1999 for the reliefs sought in this reference and the Hon'ble High Court while depositing of the said petition have held that the termination of the workman by the contractor was a valid one and the action of FCI was legal and as such, the workman cannot agitate the question again and the decision of the Hon'ble High Court operates as res-judicata between the parties and the workman is not entitled to any relief.

8. First of all, I will take up the submission made by the learned advocate for the party no. 1 that the present reference is hit by the principles of res-judicata, due to the decision of the Hon'ble High Court, Nagpur Bench in W.P. 1389/99.

It is not disputed that the workman alongwith 78 others through the union, "Rashtriya Mazdoor Sena Saptahit Jaibhim" filed Writ Petition no. 1389/99 before the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur, for their regularisation and the Hon'ble High Court did not grant such relief. On perusal of the order passed by the Hon'ble High Court on 29-07-2002 in the said writ petition, it is found that the workman and others claimed regularisation on the ground that they were employed by the contractor for doing regular work of the Food Corporation of India and in view of the same, they have become workmen of Food Corporation of India, since the work on which they were employed is of perennial nature. However, it is found from the judgment that the Hon'ble High Court did not consider the main relief and passed the following order :

"In view of the judgment of the Constitution Bench in Steel Authority of India Ltd, and others Vs. National Union water front workers and others (reported in 2001 (7) SCC 1), the relief sought by the petitioners cannot be granted since the petition involves disputed question of facts as also other facts which are required to be adjudicated by appropriate authority. Accordingly, the main prayer to absorb them cannot be granted.

XX XX XX XX

In view of the rejection of the main prayer, the question of granting other prayer does not arise. In

case, the petitioners approach the appropriate authority, the appropriate authority shall take decision in the matter within a period of one year. The applicants are free to approach the appropriate authority for redressal of their grievances."

So, it is clear from the orders passed by the Hon'ble High Court as mentioned above that the Hon'ble High Court did not consider the claim made by the workman and others on merit and granted them the liberty to approach the appropriate authority for redress. Hence, the reference cannot be said to be hit by the principles of res-judicata. So, there is no force in the contention raised by the learned advocate for the party no. 1.

9. In this reference, it is never the case of the workman that he was directly appointed or engaged by the party no. 1 as a security guard. In the very beginning of the statement of claim, it has been mentioned by the workman that he was initially engaged at Food Corporation of India Depot, Wardha as a security guard, through a contractor. In paragraph 4 of the statement of claim, the workman has mentioned that, "In the year 1993, the workman was engaged by the Food Corporation of India through contractor, for the period of 2 years, but the contract was made on paper." The case of the workman is that after every two years, the party no. 1 on papers showed the change of contractors, but he was not disturbed from services and he worked continuously without any break till 14-03-1999 and as he worked as a security guard of perennial nature, he is entitled for reinstatement in service. The workman has also claimed that as the Central Government issued notification on 01-11-1990 to abolish the contract labour system in FCI and directed to give employment to contract labours engaged by the management and party no. 1 implemented such direction at Nagpur and Manmad only and gave employment and regularized and absorbed the services of the Security Guards working at Nagpur and Manmad and did not implement the same at Wardha and other places to deprive him from the benefits under the Labour Laws.

From the evidence on record and the own admission of the workman in the cross-examination including the specific admission that he was engaged by the contractor and the contractor left him to FCI and he was appointed through Singh Securities Services, it is clear that the workman was engaged by the contractor. The workman has not produced any evidence to show that he was directly engaged by the Party No. 1.

10. At this juncture, I think it apropos to mention about the principles enunciated by the Hon'ble Apex Court regarding contract labours, in the two decisions reported in 1985-11 LLJ-4 (S.C.) (The workman of the Food Corporation of India Vs M/s Food Corporation of India) and 2001 LAB IC 3656 (S.C.) (Steel Authority of India Ltd. and others Vs. National Union Water Front Workers and others).

In the decision reported in 1985-II LLOJ-4 (supra) the Hon'ble Apex Court have held that :—

"Briefly stated, when corporation engaged a contractor for handling foodgrain at Siliguri Depot, the corporation had nothing to do with the manner of handling work done by the contractor, the labour force employed by him, payments made by him etc. In such a fact situation, there was no privity of contract of employer and workmen between the corporation and the workmen. "Workmen" has been defined (omitting the words not necessary) in the Industrial Disputes Act to mean (any person including an apprentice) employed in any industry to do.....". The expression 'employed' has at least two known connotations, but as used in the definition, the context would indicate that it is used in the sense of a relationship brought about by express or implied contract of service in which the employee renders service for which he is engaged by the employer and the latter agrees to pay him in cash or kind as agreed between them or statutorily prescribed. It discloses a relationship of command and obedience. The essential condition of a person being a workman within the terms of the definition is that he should be employed to do the work in that industry and that there should be, in other words, an employment of his by the employer and that there should be a relationship between the employer and employee or master and servant unless a person is thus employed there can be no question of his being a "workman" within the definition of the term as contained in the Act.

Dharangadhara Chemical Works Ltd. Vs. State of Saurashtra (1957 - 1 - LLJ - 477). Now where a contractor employs a workman to do the work which he contracted with a third person to accomplish on the definition as it stands, the workman of the contractor would not without something more become the workman of that third person. Therefore, when the workmen employed by the contractor were certainly not the workmen of the corporation and no claim to that effect has been made by the union."

11. In the decision reported in 2001 LAB IC - 3656 (supra) the Hon'ble Apex Court have held that :—

"The principle that a beneficial legislation needs to be constructed liberally in favour of the class for whose benefit it is intended does not extend to reading in the provisions of the Act what the legislature has not provided whether expressly or by necessary implication, or substituting remedy or benefits for that provided by the legislature. The intendment of the CLRA Act is to regulate the conditions of service of the contract labour and to authorize in Section 10(1) prohibition of contract labour system by the appropriate Government on consideration of factors enumerated in sub-section

(2) of Section 10 of the Act among other relevant factors. But, the presence of some or all those factors, provide no ground for absorption of contract labour on issuing notification under Section 10 (1) by the appropriate Government, is not alluded to either in Section 10 or at any other place in the Act and the consequence of violation of Sections 7 and 12 of the CLRA Act is explicitly provided in Sections 23 and 25 of the CLRA Act, it is not for the High Courts or the Supreme Court to read in some unspecified remedy in Section 10 or substitute for penal consequences specified in Sections 23 and 25 a different sequel be it absorption of contract labour in the establishment of principal employer or a lesser or a harsher punishment. Such an interpretation of the provisions of the statute will be far beyond the principle of ironing out the creases and the scope of interpretative legislation and as such clearly impermissible.

Thus on issuance of prohibition notification under S. 10(1) of the CLRA Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance of various beneficial legislations so as to deprive the workers of the benefit there under. If the contract is found to be not genuine but a mere camouflage, the so called contract labour will have to be treated as employees of the principal employer who shall be directed to regularize the services of the contract labour in the concerned establishment. If the contract is found to be genuine and the principal employer intends to employ regular workmen he shall give preference to the erstwhile contract labour. It otherwise found suitable, and, if necessary, by relaxing the condition as to maximum age appropriately taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications.

Air India's case 1997 AIR SCW 430 Overruled prospectively. M.A.T. Nos. 1704 and 1705 of 1999, D/- 12-8-1999 (Cal) : C.O. No. 6545(W) of 1996, D/- 9-5-1997(Cal) : W.A. Nos. 345-354 of 1997m D/- 17-4-1998 (Kant): W.P. No. 4050 of 1999, D/- 2-8-2000 (Bom) and W.P. No. 2616 of 1999, D/- 23-12-1999 (Bom), 1998 Lab IC 2571 (Cal), Reversed.

It cannot be said that by virtue of engagement of contract labour by the contractor in any work of or in connection with the work of an establishment,

the relationship of master and servant is created between the principal employer and the contract labour. Even a combined reading of the definition of the terms "Contract labour", "Establishment" and "Workman" does not show that the legal relationship between the person employed in any industry and the owner of the industry is created irrespective of the fact as to who has brought about such relationship. The word "Workman" is defined in wide terms. It is a generic term of which contract labour is a species. It is true that combined reading of the terms "Establishment" and "Workman" shows that a workman engaged in any establishment would have direct relationship with the principal employer as a servant of master. But what is true of a workman could not be correct of contract labour. When the provisions of the Act neither contemplate creation of direct relationship of master and servant between the principal employer and the contract labour nor can such relationship be implied from the provisions of the action issuing notification under Section 10(1) of the CLRA Act. A fortiori much less can such a relationship be found to exist from the rules and the forms made there under."

So, keeping in view the principles enunciated by the Hon'ble Apex Court in the decisions mentioned above, the present case in hand is to be considered.

12. In this case, the letter No. U-23013/11/89 /LW dated 28-05-92, Govt. of India, Ministry of Labour shows that the prohibition of employment of contract labour in sweeping, cleaning, dusting and watching of buildings owned or occupied by the establishments of Food Corporation of India and some other departments was lifted by the Central Government. So, the engagement of contract labour by the Party No. 1 cannot be said to be illegal. It is also found from the materials on record that the appointment of labour contractor by Party No. 1 for supply of Security Guards was genuine and the same was not only on papers as claimed by the workman. The workman has failed to prove such claim by adducing cogent or reliable evidence. The engagement of labour contractor by Party No. 1 was not a mere ruse or camouflage to evade compliance of the various beneficial legislations, so as to deprive the workman of the benefits there under. The workman has not been able to produce any document to show that at any point of time, Party No. 1 paid his wages as their employee. It is clear from the evidence that Party No. 1 paid wages of the last three months to the workman in presence of the Labour Commissioner, as the contractor did not pay the same. As it is clear from the evidence on record that the workman was engaged as a contract labour with Party No. 1, by the contractor and as such, it can be held that there was no relationship of master and servant between the Party No. 1 and the workman. Hence, there was no question of termination of the services by the Party No. 1 or compliance of the provisions of Sections 25-F or 25-H of the Act.

13. It is the own case of the workman that he was engaged by the contractor. So the contractor, who had engaged the workman is a necessary party in the reference. The said contractor has not been added as a party in this reference. Due to non-joinder of necessary party, the reference is bad in law.

In view of the materials on record and the discussions made above, the reference cannot be answered in favour of the workman. Hence, it is ordered:-

ORDER

The reference is answered in workman is not entitled to any relief.

J.P. CHAND, Presiding Officer

नई दिल्ली, 26 फरवरी, 2013

का.आ. 589.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 अप्रैल, 2013 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 (धारा-76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध पंजाब राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :

क्रम सं	ग्राम का नाम	हदबस्त संख्या	तहसील	जिला
1.	गागोवाल	79	मानसा	मानसा
2.	गेहले	78	मानसा	मानसा

[सं. एस-38013/14/2013-एसएस-I]

नरेश जायसवाल, अवर सचिव

New Delhi, the 26th February, 2013

S.O. 589.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st April, 2013 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Punjab namely :—

Sr. No.	Name of the Village	Hadbast No.	Tehsil	District
1.	Gagowal	79	Mansa	Mansa
2.	Gehle	78	Mansa	Mansa

[No. S-38013/14/2013-SS-I]
NARESH JAISWAL, Under Secy.

नई दिल्ली, 26 फरवरी, 2013

का. आ. 590.—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि ताबा खनन उद्योग में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 13 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप खण्ड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योगों को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस 11017/11/97-आई आर (पीएल)]

चन्द्र प्रकाश, संयुक्त सचिव

New Delhi, the 26th February, 2013

S.O. 590.—Whereas the Central Government is satisfied that the public interest requires that the services in the 'Copper Mining Industry' which is covered by item 13 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a 'Public Utility Service' for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a 'Public Utility Service' for the purpose of the said Act for a period of six months.

[No. S-11017/11/97-IR (PL)]

CHANDRA PRAKASH, Jr. Secy.

नई दिल्ली, 26 फरवरी, 2013

का.आ. 591.—राष्ट्रपति, श्रीमती मलीरेड्डी विजया लक्ष्मी को 14-02-2013 से केन्द्रीय सरकार औद्योगिक न्यायाधीकरण सह-श्रम न्यायालय, हैदराबाद, के पीठासीन अधिकारी के रूप में 65 वर्ष की आयु पूरी होने अर्थात् 31-03-2018 तक अथवा अगले आदेशों तक, जो भी पहले हो नियुक्त, करते हैं।

[सं. ए-11016/4/2011-सीएलएस-II]

अ. जोशी, अवर सचिव

New Delhi, the 26th February, 2013

S.O. 591.—The President is pleased to appoint Smt. Malireddy Vijaya Lakshmi as Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad w.e.f. 14-02-2013 till she attains the age 65 years i.e. upto 31-03-2018 or until further orders, whichever is earlier.

[No. A-11016/4/2011-CLS-II]

AJAY JOSHI, Under Secy.